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DOES NOT CIRCULATE

LAWS

OF THE

STATE OF NORTH-CAROLINA,

INCLUDING

**THE TITLES OF SUCH STATUTES AND PARTS OF
STATUTES OF GREAT BRITAIN**

AS ARE IN FORCE IN SAID STATE;

TOGETHER WITH

**The second Charter granted by Charles II. to the
Proprietors of Carolina ;**

The Great Deed of Grant from the Lords Proprietors ;

The Grant from George II. to John Lord Granville ;

**The Bill of Rights and Constitution of the State, including the names
of the Members of the Convention that formed the same ;**

The Constitution of the United States, with the Amendments ; and

The Treaty of Peace of 1783 ;

WITH

MARGINAL NOTES AND REFERENCES.

Revised, under the authority of the General Assembly, by

HEN. POTTER, J. L. TAYLOR & BART. YANCEY, ESQ'S.

And published according to an Act of the Legislature of 1819, under the
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HENRY POTTER.

DOES NOT CIRCULATE

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LAWYER

STATE OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK

IN SENATE

JANUARY 1871

REPORT OF THE COMMISSIONERS OF THE LAND OFFICE

IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE

PASSED MAY 18, 1870

ALBANY: PUBLISHED BY THE COMMISSIONERS OF THE LAND OFFICE

1871

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CHAP. 453.

An act to amend, strengthen and confirm the several acts of Assembly of this state against the emancipation of slaves. (See 1777, c. 109, s. 1.)

Whereas doubts have arisen in the construction of the said acts, as to the extent of the liberation powers vested in the county courts, by an act passed in the year one thousand seven hundred and seventy-seven, chapter sixth, entitled, "An act to prevent domestic insurrection," and another act passed in the year one thousand seven hundred and forty-one, chapter twenty-nine :

1. *Be it therefore enacted, &c.* That no slave shall be set free in any case, or under any pretence whatever, except for meritorious services, to be adjudged of and allowed by the county court, and license first had and obtained therefor; and that such liberation when entered of record, shall vest in the said slave, so as aforesaid liberated, all the right and privilege of a free-born negro, any thing in the said act to the contrary notwithstanding.

Manner of liberating slaves:

CHAP. 454.

An act to prevent people from impeding the free passage of fish up the rivers and creeks in this state.

1. *Be it enacted, &c.* That from and after the passing of this act, it shall not be lawful for any person in this state to set or cause to be set, any net of any description, across the main channel of any navigable river or creek in this state, under the penalty of twenty pounds, to be recovered by any person suing for the same, to his or her own use, before any jurisdiction having cognizance thereof.

Penalty on setting a net across the channels of rivers, &c.

2. *Be it further enacted,* That if any servant or slave shall be guilty of the aforesaid offence, without the knowledge or consent of his or her master or mistress, he or she so offending shall have and receive thirty-nine lashes on his or her bare back.

Penalty on slaves.

3. *And be it further enacted,* That nothing in this act contained, shall prevent or be construed to prevent any person or persons from working and hauling their seines across any of the rivers or creeks in the same manner as heretofore in use.

Proviso.

CHAP. 455.

An act to remedy certain inconveniences arising under the present land laws.

Whereas the entry-takers are not required by law to insert the date of the entry in the warrant issued to the claimant, and the date of the entry does not therefore appear upon the grant, and it frequently happens that a second enterer of the same land obtains his grant first, and great injustice is done to the first fair and honest purchaser: For remedy whereof,

Date of the entry to be inserted in the warrant and grant.

Penalty on entry-takers for neglect.

(See 1795, c. 445, s. 6.)

Where original enterer is dead, or claimant is an assignee, how grants may issue.

Proviso.

1. *Be it enacted, &c.* That from and after the first day of March next, it shall be the duty of the entry-taker to insert the date of the entry in the body of the warrant; and the secretary of state shall, and he is hereby required in issuing grants for lands, in all cases whatsoever, to insert in the body of such grant the date of the entry, where such date shall appear on the warrant returned into the office; and if any entry-taker shall issue a warrant contrary to the directions of this act, he shall forfeit and pay the sum of two hundred pounds, to be recovered by action of debt, one-half to the person who shall sue for the same, and the other half to the use of the state.

2. Whereas difficulties have arisen in obtaining grants under the operation of the sixth section of an act, passed at the last session of the General Assembly, entitled, "An act to amend an act, entitled, an act to prevent the issuing of grants for lands, entered with any of the entry-takers in this state in certain cases, and to prevent the issuing warrants of survey in manner as is described," where the original enterer is dead or removed, so that the oath required by said act cannot be made:

Be it further enacted, That in all cases where the original enterer is dead, or where the claimant may hold by assignment of a person removed out of the state, it shall and may be lawful upon such claimant filing an affidavit to that effect in the secretary's office, for the secretary of state to issue a grant upon warrants so returned for all entries made previous to the first day of January, one thousand seven hundred and ninety-four. *Provided,* That the warrant corresponds sufficiently with the transcript returned under the said act to the secretary's office, by the clerk of the county courts.

Provided also, That grants may issue to persons claiming lands entered in the counties of Guilford and Chatham, previous to the year one thousand seven hundred and eighty-three, although there may be no transcript with which the warrant may or can be compared.

3. And whereas warrants have in some instances been lost, that have issued upon entries made in the books now in possession of the clerks of the county courts, and others never issued, so that titles cannot be perfected to the lands so claimed: For remedy whereof, *Be it further enacted*, That it shall and may be lawful for any person claiming lands under such circumstances, to make application to the court of the county in whose office such books are lodged, for a second warrant; and if it shall be made appear to the satisfaction of such court, by the inspection of the books, that such entry was made, and that the party had been legally entitled to receive a warrant, and it shall also be made appear by the oath of the surveyor or some credible witness, that such warrant has been lost or destroyed, that it shall be the duty of the court to order the clerk to issue a second warrant of the same tenor and date of the one so lost or destroyed, stating in the body thereof that the same is a duplicate; (a) which warrant shall issue under the seal of the court of the county, and the same shall be as valid as if issued by the entry-taker; and the surveyor making return of plats and survey under such duplicate, it shall be his duty to note the same particularly therein; and the secretary issuing any grant or grants thereon, shall recite in the face of the same, that the same is issued under a duplicate warrant by virtue of this act, and liable to become null and void, if at any future time it shall appear that a grant had been obtained on the original warrant stated to have been lost or destroyed as aforesaid.

Remedy where warrants have been lost, or were not issued.

(a) This section repealed by 1798, c. 493, s. 3—re-enacted by 1801, c. 578. See also 1814, c. 878.)

4. *And be it further enacted*, That in all cases where it shall appear by the entry-taker's books, that a warrant hath not issued by the entry-taker, the clerk by order of the court is hereby directed to issue warrants in the same manner as by the first section in this act directed, to the person or persons who may apply for the same; and the clerk of the court shall be entitled to demand and receive the sum of four shillings in full for all services in this behalf. (b)

Where warrants have not issued by entry-takers, how to be issued.

(b) See 1797, c. 483, s. 2.)

Precautions against entries made in certain counties.

(a See 1811, c. 819, extending to representatives of claimants.)

5. And whereas lands now in the counties of Wilkes, Burke and Buncombe were formerly liable to be entered, and may have been entered with the entry-taker of Washington and Greene, in the state of Tennessee: And whereas frauds may be attempted under colour of warrants from the said counties of Washington and Greene: For a prevention whereof, *Be it enacted*, That every person^(a) claiming lands in either of said counties of Wilkes, Burke or Buncombe, under colour of an entry made in Washington or Greene, shall previous to making a survey thereof, produce to the court of the county in which the land lieth, a majority of the justices being present, his warrant, and make it appear by his own oath and other testimony where it can be procured, that the purchase money for the land claimed hath been paid to the entry-taker, and thereupon the warrant shall be countersigned by the clerk, and thereafter be held a good warrant. *Provided nevertheless*, That all such surveys shall be made agreeable to the location: *And provided also*, That any grant obtained on a warrant countersigned as aforesaid, shall be and the same is hereby declared null and void, in case it shall afterwards appear that a warrant had been previously issued and a grant at any time obtained thereon.

Grants may be stayed in certain cases.

6. And to prevent grants being issued upon feigned or forged warrants, *Be it enacted*, That it shall be the duty of the secretary of state to stay the issuing of grants on all warrants returned into his office, purporting to be signed by any entry-taker of the counties of Washington and Greene, whereof he may entertain any doubts of their being genuine, or not actually signed by any of the said entry-takers; and in all such cases it shall be his duty to lay such warrants before the next General Assembly, who will take such order thereon as justice and the interest of the state may require.

7. And whereas by the said act, lands entered and not paid for for a certain time therein limited, revert again to the state and may again be entered by any person on procuring the certificate therein prescribed from the treasurer; and it has happened in divers instances, from a want of general publication of said law in time to enable the citizens to provide for the payment of their lands, the claims of many persons have lapsed and become void: For remedy whereof,

Be it enacted, That all entries of claims for lands which have been made in any of the counties of this state after the eighth day of February, one thousand seven hundred and ninety-five, for which the purchase money hath not been heretofore paid to the state, may yet be paid for at any time during the present session of the General Assembly, or within twelve months after the rising of the same: and the public treasurer shall be, and he is hereby required to receive the purchase money for all such entries as aforesaid, and to grant receipts for the same, in like manner as he would have done had such entries never lapsed and become void under the operation of the act aforesaid. *Provided*, That no such receipt of the purchase money shall operate in bar of, or to the prejudice of any entry or entries which may have been since lawfully made for any of the lands of the aforesaid description.

Time allowed
for payment of
purchase money
on entries.

8. *And be it further enacted*, That in all cases of entries made since the first day of January, one thousand seven hundred and ninety-four, it shall be the duty of the person having made such entry, to cause the warrant and survey to be returned to the secretary's office within twelve months after the expiration of the present session of the General Assembly; and in all cases of entries which may hereafter be made, it shall be the duty of the person making such entry, to have the warrants and surveys returned to the secretary's office within twelve months after the passing of this act, or the date of such entry; and the remainder of the purchase money, shall in all cases of entry since the first day of January, one thousand seven hundred and ninety-four, be paid into the public treasury within twelve months from the expiration of the present session of the General Assembly: and in all cases of entry made hereafter, it shall be paid to the public treasurer within twelve months from the date of the entry, after which time, if the purchase money should not be paid, suit shall be brought by the treasurer against such enterers, and the entry-taker's returns filed in the comptroller's office, shall be *prima facie* evidence, that such entry was made and the money unpaid. *Provided always*, That it shall be lawful for the enterer to make it appear by the oath of the surveyor of the county where the lands were entered, made in open court, and certified by the clerk upon the warrant, that no vacant land could be

Duty of persons
making entries,
&c.

(Repealed by
1798, c. 493,
s. 4.)

found, or only part of the quantity called for by said warrant, and the enterers shall then have credit to the amount thereof with the treasurer; and the said warrant shall be filed as a voucher in the treasury, and thereupon the treasurer shall forbear to bring suit: and in all cases where the treasurer shall have brought suit, and such evidence shall be used upon the trial, the defendant shall pay costs although there may be no recovery for the state.

Entry-takers to furnish the treasurer with return of entries, &c.

9. And to the end that the names of the enterers of land in the several counties within this state, since the eighth day of February, one thousand seven hundred and ninety-five, may be known: *Be it enacted*, That the entry-takers of the respective counties, shall within twelve months after the expiration of the present session of the General Assembly, furnish the treasurer with a complete return on oath, of all the entries made in their respective offices since the said eighth day of February, one thousand seven hundred and ninety-five, either with themselves or their predecessors in office, as shall appear from the books in their possession; for which service they shall receive an adequate reward, to be fixed by the treasurer and comptroller, and to be paid out of the treasury on the delivery of such return; and annually hereafter, they shall make return of all lands entered with them as a part of their official duty, for which they shall claim no reward. And in case of the refusal or failure of any entry-taker to furnish returns as by this act required, he or they so refusing or failing, shall forfeit and pay the sum of one hundred pounds, to be recovered on motion in any court having cognizance thereof, on the certificate of the treasurer that such failure hath happened.

Duty of surveyors, &c.

10. And to remedy the neglects and abuses of surveyors in certain instances: *Be it also enacted*, That from and after the passing of this act, whenever a warrant of survey shall come to any surveyor in this state, he shall as usual proceed to survey the same, and shall within thirty days after such survey is made, deliver to the person or persons for whom the survey was made, upon his or their application, and upon his fees being paid, the warrant, together with two just and fair plats of such survey, under the penalty of twenty pounds for each failure, to be recovered before any jurisdiction having cognizance thereof, by the party grieved.

11. *And be it further enacted*, That such warrant and plats shall be enclosed to the secretary under the seal of the surveyor, and when such warrant and plats shall be presented by the persons possessing the same, such person shall make oath, that they are in the same plight and condition that they were in when received from the surveyor; and it shall be the duty of the secretary thereupon, to make out a grant or grants in the same manner, and under the same regulations as if the return was made from the surveyor aforesaid.

Warrant and plats, how to be offered to the secretary, and his duty thereon.

(Repealed by 1798, c. 493, s. 4.)

12. And whereas all the books of the entries of land made previous to the eighth day of February, one thousand seven hundred and ninety five, are by law directed to be lodged with the clerks of the several county courts, who may refuse the inspection of the same to the persons desirous to have reference thereto: For remedy whereof. *Be it further enacted*, That each and every clerk within this state, having the possession of the said books of entries, shall on application search the same, under the penalty of fifty pounds, to be recovered to the use of the person suing for the same; and give if required a true copy of any location; and take and receive for every search one shilling, and for his services in making out a copy of every location the sum of one shilling, and no more.

Penalty on clerk's refusing search of entry books, &c.

His fees.

13. *And be it further enacted*, That all entries of lands made since the fifteenth day of November, one thousand seven hundred and ninety-seven, whereon grants have not already issued, shall be surveyed as aforesaid, and the works appertaining thereto shall be returned into the Secretary's office, and grants procured thereon on or before the first day of January, which shall happen in the year seventeen hundred and ninety-nine; and in case of failure or neglect, all such entries shall thenceforward be held and deemed utterly void and of no effect; and such lands shall be liable to be entered again by any person as vacant land, although the purchase money may have been once paid to the state: (a) and in all cases of entries which may be hereafter made, it shall be the duty of the claimant or owner surveying the same as aforesaid, to complete his title by taking out a grant for the same, or so much thereof as may be found to be vacant land, within two years from the date of such entry, otherwise such entry and claim shall then become utterly null and void so far as relates to the property in

Time allowed for survey, &c. of certain entries.

(a This clause of the section as far as the proviso repealed by 1804, c. 651.)

Duty of enterers in completing their titles.

the said land ; and the lands included therein shall be held and deemed vacant land to all intents and purposes, as fully as if such entry had never been made. *Provided always*, That this act shall not intend to affect the claim of persons holding entries west of Pigeon river, in Buncombe county, or of persons holding warrants for military lands, warrants for lands entered in the office of John Armstrong, late entry-taker of western lands, or the claims of orphans, *feme covert*s or persons insane.

CHAP. 456.

An act to authorise the Secretary to issue grants for military lands in the manner therein described, and to direct the Secretary and Comptroller to issue warrants in certain cases therein mentioned.

Whereas by an act of Assembly passed in the year one thousand seven hundred and eighty-two, entitled, “An act for the relief of the officers and soldiers in the continental line, and for other purposes therein mentioned,” a certain quantity of land was given to each officer and soldier of the North-Carolina line of continental troops, as a reward for their persevering zeal and signal bravery ; and by several acts of this state certain bounds have been described within which they were authorised to locate and survey the same : And whereas great danger has at all times since the passing said law, until very lately, attended the exploring and surveying these lands, by which means the surveys have been inaccurately made, and two or more grants have issued for the same tracts :

Where lands have been before granted, new grant to issue.

1. *Be it therefore enacted, &c.* That it shall be lawful for the Secretary of State, at any time before the Congress of the United States shall open an office for the sale of their lands within the bounds prescribed by the several acts of this state whereon the officers and soldiers of the late North-Carolina line of continental troops may locate their warrants, to examine any grant issued to any officer or soldier, or their representatives, in the manner herein after required ; and if it shall appear that such grant has been issued for lands previously granted, he shall issue another grant to the present owner of the same for the like quantity of land.

2. And to enable the Secretary to judge when it shall be proper to issue such other grant: *Be it further enacted*, That when any person holding lands under a military grant, shall procure two certificates of a sworn surveyor, certifying that the whole or any part of said lands has been previously granted, he or they may then cause a location to be made for the amount of the land so previously granted, in the books of the surveyor of the military lands kept for the purpose of receiving military locations, on such vacant land as he may think proper, within the bounds aforesaid; and the said surveyor is hereby required to receive and make such location, and to receive and file one of the certificates of the surveyor as his authority for making the same, and shall then proceed agreeable to law to survey and return the land so entered to the office of the secretary of state, who is hereby required to receive and file the other certificate of the surveyor, and endorse at large on the old grant that the land therein granted, or a certain described part thereof, were previously granted, and sign the same: And where the whole has been previously granted, he shall file the old grant in his office, and shall then proceed to issue a new grant for the whole or a part, according to the deficiency, in which he shall recite the several circumstances, and shall cause the same to be recorded in his office, first making such marginal notes in the record of the old grant as shall explain the surrender of the land for which a new grant is issued.

Proceedings in order to obtain new grant.

3. And whereas many of the warrants that have issued for the lands granted to the officers and soldiers have also been lost or destroyed: *Be it further enacted*, That in all cases where warrants have heretofore been issued by the secretary of state on the claims of officers and soldiers for lands, and such warrants have been lost or destroyed, it shall and may be lawful for the person in whose name the warrant issued, or the person who may now be the legal or equitable claimant of the land represented by the said warrant, to receive from the secretary of state a second warrant, of the same tenor and date of the one so issued and lost or destroyed, on such claimant making affidavit himself, or shewing in a satisfactory manner by the deposition of others, that such warrant hath been lost or destroyed, and also setting forth in his own affidavit, that he or she hath

Proceedings where warrant have been lost.

made or caused to be made, diligent enquiry and search in all the offices wherein such warrant might be deposited or mislaid, and that the same cannot be found; and it shall be the duty of the secretary of state upon such evidence and application, to issue a second warrant as aforesaid, noting in the face thereof that the same is a duplicate. *Provided always*, That any grant obtained upon such second warrant, shall be and the same is hereby declared to be void, should it be made afterwards appear that the first warrant was returned either at the time of the application for the second warrant, or at any time afterwards; and it shall be the duty of the secretary to note in the face thereof, that the same is issued under the authority of this act, reciting the title thereof, and liable to become void as is herein and hereby provided.

Proceedings
where warrants
issued from
Armstrong's of-
fice have been
lost.

4. And whereas warrants have in many instances issued on entries made in the late office of John Armstrong, and have by accident been lost or destroyed, to the great injury of the claimants: For remedy whereof. *Be it further enacted*, That in all cases where warrants have heretofore been issued by the said John Armstrong, and such warrants have been lost or destroyed, it shall and may be lawful for the person in whose name such entry was made, or the person who may be the *bona fide*, equitable or legal owner or claimant of such entry, on making affidavit himself, or shewing in a satisfactory manner by the deposition of others, that the warrant issued on such entry hath been lost or destroyed, and that he or she hath made or caused to be made diligent search and enquiry in the secretary's and surveyor's offices where such warrant might be deposited or mislaid, and that the same cannot be found, to receive from the comptroller a second warrant of the same tenor and date of the one so issued and lost or destroyed; and it shall be the duty of the comptroller, on such evidence and application, to issue such warrant, noting on the face thereof, that the said warrant is a duplicate. *Provided always*, That any grant obtained upon such second warrant, shall be and the same is hereby declared to be void, should it afterwards appear at any time, that a grant issued on the first warrant alleged to be lost or destroyed; and it shall be the duty of the secretary to note in the face thereof, that the same is issued under the authority of this act, reciting

the title thereof, and liable to become void as is herein and hereby provided.

5. *And be it further enacted*, That in all cases of entries for land with John Armstrong in which warrants have been issued, no grants shall be had on the same unless it appears by the comptroller's certificate, that agreeably to Mr. Armstrong's books lodged in his office, or other sufficient testimony, that the purchase money hath been paid.

Grants not to issue, &c.

6. And whereas warrants have been detained or refused by the said John Armstrong, owing to the purchase money not being fully paid : *Be it further enacted*, That it shall and may be lawful for any person who has made any entry or entries in the late office of the said John Armstrong, or the legal or equitable claimant of the land so entered, to pay unto the treasurer of the state, in certificates, the amount or balance of the purchase money due for such entry or entries, interest on which must cease at the time the entry was made ; and that the comptroller be directed to credit the account of the said Armstrong, and charge the treasurer with the said payment ; for which payment the treasurer shall give a receipt, specifying the consideration thereof ; and it shall be the duty of the comptroller, when the claimant shall produce such receipt, to issue the warrant so detained for non-payment.

Purchase money on entries made in Armstrong's office, may be paid to the treasurer, &c.

CHAP. 457.

An act to secure property to religious societies or congregations of every denomination.

Whereas several donations have been given by divers persons for the use of promoting sundry religious societies and congregations in this state, and no person being legally authorised to receive and appropriate the same agreeable to the intention of the donor : *Be it enacted, &c.* That it may be lawful for any religious society or congregation in this state, if they should deem it necessary, at any time to elect any number of persons they may think proper, as trustees for their respective societies or congregations, from whose body they may have been selected ; and all such persons so appointed, or their successors in office, are hereby

Religious societies may choose trustees.

Power of the trustees.

vested with full and ample power to purchase and hold in trust for such society or congregation to which they may belong, any lands, houses or tenements, and to receive gifts and donations of any nature or kind whatsoever, for the use and benefit of such society or congregation. *Provided nevertheless,* That by virtue of this act no single congregation or society shall hold more lands than in value shall amount to the sum of two hundred pounds yearly, and in quantity to two thousand acres, all which shall be subject to taxes like other land.

May sue and be sued, &c.

(a Right of action extended; see 1809, c. 778.)

Trustees to account, &c.

Donations to religious societies confirmed, &c.

2. *And be it further enacted,* That it may be lawful for trustees acting under the authority of this act, to sue and be sued, for the recovery of any gift or donation that has heretofore or shall hereafter be given, whether real or personal property; (a) and if any recovery shall be made by the said congregation or society, or their trustees, such recovery shall enure to the sole use of their respective societies or congregations to which they may belong.

3. *And be it further enacted,* That it shall be lawful for such religious societies or congregations, at any time they may think proper, to cause the said trustees to account for all such property, of any nature or kind whatsoever, that may have been committed to their trust; and in case of refusal or neglect, when required so to do, it shall be lawful for the society or congregation to elect any number of persons as agents in behalf of said society or congregation, to bring suit for the recovery thereof.

4. *And be it further enacted,* That all lands, houses, tenements, gifts or donations, of any kind or nature whatsoever, that have been heretofore or may hereafter be given, granted or otherwise confirmed or conveyed to any religious society or congregation, or to any of the members thereof for the use of the said society or congregation, shall be hereby deemed and held valid in law to convey to the said society or congregation, or respective societies or congregations, the absolute estate of all such property as may have been intended to be made or expressed in such deed of sale, will or gift. *Provided nevertheless,* That nothing contained in this act shall tend to affect the claim or claims of any other person or persons except the donor, his heirs or those claiming under him or them from whom the respective societies or congregations may have derived their titles :

And provided also, That nothing herein contained shall be so construed as to extend to the establishment of any church or religious society or congregation in any wise whatever.

CHAP. 458.

An act to amend an act, passed at Hillsborough, in the year one thousand seven hundred and eighty-three, entitled "An act to enforce the attendance of jurors in this state, to provide for their subsistence in attending; also to ascertain the pay of witnesses attending courts, and other purposes."

1. *Be it enacted, &c.* That in future every person being lawfully summoned, who shall attend any of the superior or county courts of this state, as a witness in any suit (those wherein the state is a party excepted,) shall at each court, before the clerk thereof or his lawful deputy, ascertain by his or her own oath or affirmation, the sum due for travelling to and from court, attendance and ferriages; which shall be certified by the clerk or his lawful deputy, and on failure of the party at whose instance such witness was summoned, to pay off and discharge the same previous to the departure of the witness from the court, it shall be lawful for such witness to sue for and recover the same from the party summoning him or her, at such time as he or she may see proper, before any jurisdiction having cognizance thereof; (a) and the certificate of the clerk or his lawful deputy, shall be sufficient evidence of the debt. *Provided always,* That in any case where recovery may be had before a justice of the peace, on a witness-ticket or certificate, it shall and may be lawful for such justice, having previously defaced such ticket by writing the word judgment in large letters in the face thereof, to deliver the same to the person against whom recovery is had thereon.

Manner of ascertaining and procuring pay of witnesses, &c.

(a See 1783, c. 189, s. 3—1806, c. 694, s. 9—1819, c. 1023.)

2. *And be it further enacted,* That at the court at which any cause shall be finally determined, the party in whose favour judgment shall be given, shall file or cause to be filed the certificates of the attendance of witnesses in the clerk's office; the amount whereof shall be taxed in the bill of costs, to be levied and recovered for the benefit of said party; any thing to the contrary notwithstanding.

To be taxed in bill of costs, &c.

CHAP. 459.

(See 1794, c. 409; and 1798, c. 507.) An act granting further time for registering grants, proving deeds and mesne conveyances, also bills of sale and deeds of gift; which have not been proved and registered within the time heretofore appointed by law.

Further time allowed for registering grants.

1. *Be it enacted, &c.* That all grants for lands which have not been registered within the time heretofore appointed by law, shall and may within two years after the passing of this act, be admitted to registration, and shall be as good and valid as if they had been registered within the time heretofore allowed by law.

And proving deeds.

2. *And be it further enacted,* That all deeds and mesne conveyances of lands, tenements and hereditaments, not already proved, acknowledged and registered, shall and may within two years after the passing of this act, be acknowledged by the grantor or grantors, his or their agent or attornies, or proved by one or more of the subscribing witnesses to the same, and tendered or delivered to the register of the county where such lands, tenements and hereditaments lie; and if the witnesses or parties live out of the state, and the deed or conveyance be acknowledged or proved before a judge of the superior court of the country or state in which the party or witnesses liveth, and the judge certifies the same; and there is an attestation of the chief magistrate of the state or country, certifying that the person signing as judge holds the said office, it shall be lawful for the register of the county where the land lieth, to record the same at any time within two years after the passing of this act; and all deeds and mesne conveyances whatever which shall be acknowledged or proved and registered according to the directions of this act, shall be good and valid, and take effect as fully, to the use and benefit of the grantees, their heirs and assigns, as if such deeds and conveyances had been acknowledged, proved and registered agreeable to the directions of any act heretofore made.

Manner of proof where witnesses are dead

3. *Be it further enacted,* That all conveyances of land the possession whereof hath gone with such conveyance, and the witnesses shall be dead before the same is proved, may be proved by similarity of hand-writing of the grantor or one of the subscribing witnesses of such conveyance.

4. *And be it further enacted,* That all bills of sale taken, and deeds of gift made, and not already recorded in manner required by law, shall have a further time of twelve months allowed for probate and registration, and shall when thus authenticated and perpetuated, be held and deemed as valid, to all intents and purposes, as if they had been proved and registered within the time required by an act passed at Fayetteville, in the year of our Lord one thousand seven hundred and eighty-nine, any law, usage or custom to the contrary notwithstanding.

Time allowed for record of bills of sale and deeds of gift.

(See 1797, c. 481.)

CHAP. 460.

An act to amend the sixteenth section of an act passed in October, one thousand seven hundred and eighty-four, entitled, "An act to empower the county courts of pleas and quarter-sessions of the several counties within this state, to order the laying out public roads, and to establish and settle ferries, and to clear out inland rivers and creeks."

1. *Be it enacted, &c.* That from and after the passing of this act, any five justices in any county within this state, shall in open court have and possess all the powers and authorities given or intended to be given by the sixteenth section of an act passed in the year one thousand seven hundred and eighty-four, (a) entitled, "An act to empower the county courts of pleas and quarter-sessions of the several counties within this state, to order the laying out public roads, to establish and settle ferries, and to clear out inland rivers and creeks," in as full and ample a manner as the majority therein expressed might have exercised.

Powers extended to 5 justices.

(a See 1784, c. 227, s. 16.)

2. *And be it further enacted,* That the commissioners appointed for the purposes aforesaid, shall give notice at least three days previously, for all persons to assist and work on any inland river or creek, agreeably to the intention and spirit of the aforesaid law; and if any person or persons shall thereafter obstruct the free passage of boats, by falling trees or by any other means whatever, he or they so offending, shall forfeit and pay the sum of five pounds, to be recovered by the commissioners aforesaid, and by them applied to the purposes of clearing out and making easy the navigation of their inland rivers and creeks respectively: any law to the contrary notwithstanding.

Notice to be given for working on rivers, and penalty on causing obstructions.

CHAP. 461.

An act for appointing commissioners to settle the boundary line between this state and the state of Tennessee.

Whereas it is necessary to prevent disputes between this state and its citizens, that the boundary line between this state and the state of Tennessee should be accurately and distinctly marked out, and permanently established :

Commissioners appointed to settle the boundary with Tennessee, &c.

1. *Be it therefore enacted, &c.* That Joseph M'Dowell, Mussendine Matthews, and David Vance be, and they are hereby appointed commissioners, to meet the commissioners who are or may be hereafter appointed by the state of Tennessee, at such time and place as shall be agreed on; and with them to settle all and every difference, controversy, dispute and claim that may subsist or arise between this state and the state of Tennessee with respect to the boundaries; and to fix and permanently establish the boundary line between the two states, and the same to mark and ascertain, as distinctly as possible, agreeable to the true intent and meaning of said boundary between this state and the state of Tennessee, as described in an act, entitled, "An act for the purpose of ceding to the United States of America certain western lands therein described." And the commissioners on the part of this state shall cause an accurate plat or plan of the said boundary line to be made, specifying the courses, distances, natural and artificial marks, and return the same to the next General Assembly, to be preserved among the archives of the state. *Provided nevertheless,* That the ascertainment of said line shall not affect the titles of any person to lands entered in either of the said states. And this state will at all times hereafter ratify and confirm all and whatever the said commissioners, or a majority of them, shall do in and touching the premises, and the same shall be binding on this state.

Allowance to the commissioners, and power given them.

2. *Be it further enacted,* That the commissioners appointed by this act, shall for their personal services be allowed the sum of forty shillings per day; and the said commissioners, or a majority of them, are hereby authorised and empowered to employ such surveyor or surveyors, and such chain-carriers and markers, as

they, or a majority of them shall deem necessary. And the said commissioners are hereby invested with every necessary power to effect the purposes before mentioned in this act; and there shall be allowed to each surveyor appointed by said commissioners, or a majority of them, and he shall be entitled to receive thirty shillings per day; and to each chain-carrier or marker, twenty shillings per day, for every day they shall be employed in running and making the line aforesaid.

3. *Be it further enacted*, That in case of death, refusal to act, or resignation of any of the commissioners hereby appointed, the governor is hereby authorised and required, as speedily as may be, to appoint another commissioner or commissioners for the purposes aforesaid.

Vacancy of commissioners how supplied.

4. *Be it further enacted*, That the governor for the time being, shall as soon as may be in his power after the ratification of this act, transmit a copy thereof to the governor or executive of the state of Tennessee, accompanied with a letter of request, that the state of Tennessee may immediately proceed to take such measures as may be necessary to effect the appointment of commissioners on their part, to act jointly with those appointed by this act. But if it shall so happen, that the state of Tennessee shall fail to appoint commissioners to act as aforesaid, in adjusting amicably the boundary line of the two states; or if commissioners appointed on the part of the state of Tennessee shall fail, or refuse to act with the commissioners herein appointed for effecting the purposes of this act, the commissioners herein and hereby appointed, are authorised, empowered and required, singly and by themselves, to proceed to take all and singular such measures, as under the laws and constitution of this state, and the laws and constitution of the United States, may be taken or had for effecting the purposes intended and had in view by this act.

Governor to notify the executive of Tennessee, &c.

CHAP. 462.

An act to enforce the duty of inspectors in this state, and other purposes therein mentioned.

Whereas many inspectors in this state, do appoint persons to act in their stead and room, to inspect beef,

pork, tar, pitch, turpentine, &c. to the great injury of the credit of the aforesaid articles :

Inspector not to appoint any other person to inspect.

(a Assistant inspectors—see 1811, c. 807, s. 2.)

Penalty.

1. *Be it enacted, &c.* That it shall not be lawful for any person appointed inspector, agreeable to the act of Assembly for establishing inspectors, to appoint any person or persons to act in said office of inspection under him or them ;(a) but it shall be the duty of every inspector so appointed, to attend personally to the inspection of all articles or produce, which the said inspector is entitled to inspect. And if any inspector shall employ any person or persons to act as aforesaid, such inspector shall forfeit and pay the sum of one hundred pounds, to be recovered by action of debt in any court of record having cognizance thereof, for every such offence, one half to the use of the state, and the other half to the person suing for the same.

Size of fish barrels.

(See 1784, c. 206, s. 9.)

2. And whereas doubts arise as to the size of barrels for the purpose of fish: For remedy whereof, *Be it enacted*, That all barrels for the purpose of fish, shall be of the following dimensions, to wit: Each barrel shall be at least twenty-eight inches in length, and each barrel head shall be seventeen and one half inches diameter, and shall contain thirty gallons, and made in a workmanlike manner, and full of good sound fish, with a sufficient quantity of salt; any law to the contrary notwithstanding.

CHAP. 463.

(a See 1797, c. 491, 1815, c. 897.)

An act to improve the navigation of Cape-Fear River, and of Deep and Haw Rivers.(a)

Whereas the navigation of Cape-Fear River from Avarysborough up to the confluence of Deep and Haw Rivers, and of each of the said rivers as far as the same can be effected, would be of important public utility ; and many persons are willing to subscribe money to effect the work, and it is just that such subscribers their heirs and assigns, shall receive reasonable tolls in satisfaction for the money advanced by them to execute the said work, and for the risk they run ;

Books of subscription, under whose direction and when and

1. *Be it therefore enacted, &c.* That it shall be lawful to open books of subscription at Ramsey's and Stokes's mill, in Chatham county, on Deep River, under the

management of John Ramsey and Thomas Stokes at said mill; and at Henry Branson's in Randolph county, under the management of Henry Branson, for receiving and entering subscriptions to the amount of eight thousand dollars for the said undertaking; which subscriptions shall be made personally or by power of attorney, and shall be in Spanish milled dollars, but may be paid in other silver or gold coin of the same value: that the said books shall be opened for receiving subscriptions on the first day of May next, and continue open until the first day of August next, inclusive: and on the tenth day of August there shall be a general meeting at Pittsborough in Chatham county; of which meeting notice shall be given by the said managers at least twenty days before the said meeting, and such meeting shall and may be continued from day to day until the business is finished; and the acting managers shall at the time and place aforesaid, lay before such subscribers as shall meet according to the said notice, the books by them respectively kept, containing a state of the said subscriptions: and if one half of the capital sum aforesaid, should on examination appear not to have been subscribed, then the said managers are empowered to take and receive subscriptions to make up the deficiency: and in case more than eight thousand dollars shall be subscribed, then the same shall be reduced to that sum by the said managers, or a majority of them, by beginning at and striking off from the largest subscription or subscriptions, and continuing to strike off a share from the subscriptions above one share, until the sum is reduced to the capital aforesaid of eight thousand dollars, or until a share is taken from all subscriptions above one share; and lots shall be drawn between subscribers of equal sums, to determine the number in which such subscribers shall stand on a list to be made for striking off as aforesaid: and if the sum subscribed still exceeds the capital aforesaid, then they shall strike off by the same rule, until the sum subscribed is reduced to the capital aforesaid, or all the subscribers are reduced to one share; and if there still be an excess, then lots shall be drawn to determine the subscribers who are to be excluded, to reduce the subscriptions to the capital aforesaid; which striking off shall be certified in the list aforesaid: and the said capital sum shall be reckoned and divided into three hundred and twenty ^{where to be opened.}

shares of twenty-five dollars each, of which every person subscribing may take and subscribe for one or more whole shares, and not otherwise. *Provided always,* That unless one half of the said capital shall be subscribed, all subscriptions made in consequence of this act shall be void; and in case one half and less than the whole of the said capital shall be subscribed as aforesaid, then the directors are hereby empowered and directed to take and receive the subscriptions, which shall be first offered in whole shares as aforesaid, until the deficiency shall be made up; a certificate of all such subscriptions shall be made under the hand of the directors, or a majority of them, for the time being, and be returned to and recorded in the county court of Chatham.

When half the capital is subscribed the company declared to be incorporated, and to elect a president, &c.

2. *Be it further enacted,* That in case one half of the said capital or a greater sum shall be subscribed as aforesaid, the said subscribers and their heirs and assigns, from the time of the said first meeting, shall be, and they are hereby declared to be incorporated into a company by the name of the Deep and Haw River Company, and may sue and be sued as such. And such of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a president and four directors, for conducting the said undertaking, and managing all the said company's business and concerns, for and during such time not exceeding five years, as the said subscribers or a majority of them shall think fit. And in counting the votes of all general meetings of said company, each subscriber shall be allowed one vote for every share as far as five shares, and one vote for every three shares above five, by him or her held at the time in the said company. And any proprietor by writing under his or her hand, executed before a justice of the peace, and certified, may depute any member to act as proxy for him or her at any general meeting.

President, &c.
to agree for
opening the na-
vigation, &c.

3. *Be it further enacted,* That the president and directors so elected, and their successors, or a majority of them assembled, shall and may have power and authority to agree with any person or persons on behalf of the company, to open and improve the navigation of Cape-Fear and Deep and Haw Rivers aforesaid, by canals, locks or sluices, from place to place, and from time to time, upon such terms as they shall think best :

and out of the said capital and money arising from tolls, shall and may pay for making and repairing all works necessary for the navigation; and also to appoint a treasurer, not one of their body, but yet a proprietor; clerk, toll-gatherer, and such officers, managers and servants as may be requisite, and to agree for their wages, settle and pass their accounts; and also to establish rules of proceedings, and generally to transact all the business of the company in the intervals between the general meetings of the same; and they shall be allowed by the company at their general meetings, a reasonable sum for their trouble. *Provided*, That the treasurer shall give bond and security as the president and directors shall direct; and that no officer in the company shall have a vote in settling or passing his accounts.

To appoint officers, &c.

4. *And be it further enacted*, That each subscriber shall pay for every share, at the first general meeting to be had on the tenth day of August next, at the town of Pittsborough in Chatham county, the sum of five dollars per share, to the treasurer of the company; and the names of those who fail to pay, then and there shall be struck off the books, and others complying with this regulation may take such shares; and the president and directors, and their successors, or a majority of them, shall have power from time to time as money may be wanted, to make and sign orders for that purpose, and direct at what times, and in what proportion the subscribers shall pay the sums subscribed; which order shall be advertised in the Fayetteville Gazette at least three weeks. *Provided*, That the president and directors shall not demand from the subscribers more than ten dollars per share in one year; and if any of the subscribers shall fail to pay their proportion required, within one month after the same is so advertised, the president and directors, or a majority of them, may sell at public auction and convey to the purchaser, the shares of the subscriber so failing, giving at least twenty days notice in the gazette aforesaid; and all such sales shall be at Pittsborough aforesaid, and the purchasers of such shares shall be subject to the same regulations, as if the sale and conveyance had been made by the proprietors.

Payments, when and how to be made, &c.

5. *Be it further enacted*, That from time to time at the expiration of the term for which the president and

President, &c. how continued, &c.

directors may be appointed, the subscribers at their next general meeting, may continue them or any of them, or choose others in their stead; and in case of death, resignation, removal, or incapacity of any of them, may elect others; and may also at any of their general meetings, remove the president or any of the directors, and appoint others for the remainder of the time for which such person or persons were to have acted.

President, &c.
to take oath, &
general meet-
ings when and
where held, &c.

6. *Be it further enacted*, That every president and director, before he proceeds to act, shall take an oath or affirmation for the faithful discharge of his office. And that there shall be a general meeting of the proprietors at Pittsborough in Chatham county, on the tenth day of August annually after the first meeting, who shall sit as long as the necessary business may require: and the president and directors shall make report, and render just and distinct accounts of all their proceedings; and the proprietors present, or a majority of them, if they find the accounts just, shall grant a certificate thereof, and make a statement of the same on the books of the company: and at such yearly general meetings, after leaving in the hands of the treasurer such sum as the majority of the proprietors shall judge necessary for repairs and contingent charges, an equal dividend of the profits arising from the tolls by this act granted, shall be made among the proprietors in proportion to their several shares. And on any emergency, the president or a majority of the directors, in the interval between the yearly meetings, may call a general meeting of the company at Pittsborough in the county of Chatham aforesaid, giving thirty days notice as aforesaid.

Property vested
in the company,
&c

7. *Be it further enacted*, That for the expenses the company must incur in cutting canals, erecting locks, making roads, and doing various things necessary for this navigation, the said canals, locks, roads and every work and thing appertaining to the said navigation, with all the profits arising from the same or any part thereof, shall be and they are vested in the said company, their heirs and assigns for ninety-nine years, as tenants in common in proportion to their respective shares; and the same shall be deemed real estate, and shall be exempt from the payment of taxes, imposition or assessment. And the tolls which the company shall

or may demand for every thing brought down, or carried up through their navigation, or any part thereof, shall be as followeth, to wit: For every pipe or hogshead of wine containing more than sixty-five gallons, Rates of toll,
&c. fifty cents; for every hogshead of rum or other spirits, fifty cents; for every hogshead of tobacco, thirty-three and one third cents; for every cask between sixty-five and thirty-five gallons, half of a pipe or hogshead; barrels one fourth part, and smaller casks or kegs in proportion according to the quality and quantity of their contents of wine or spirits; for casks of linseed oil, the same as spirits; every bushel of wheat, peas, beans or flax-seed, two cents; for every bushel of Indian corn or other grain, or salt, two cents; for every barrel of pork or beef, twenty-five cents; for every barrel of flour, ten cents; for every ton of hemp, flax, potash, bar or manufactured iron, one hundred cents; for every ton of pig-iron or casting, one hundred cents; for every ton of copper, lead or other ore, (except iron,) one hundred cents; for every ton of stone or iron ore, twenty-five cents; for every hundred bushels of lime, one hundred cents; for every chaldron of coals, twenty-five cents; for every hundred pipe staves, five cents; for every hundred hogshead staves, pipe or hogshead heading, five cents; for every thousand hoops, twenty-five cents; for every hundred barrel staves or heading, two cents; for every hundred cubic feet of lumber, ten cents; and for every gross hundred weight of all other commodities or packages, five cents; and that every empty boat that has carried its load, and paid the tolls, on its return shall pass free from tollage. And the president and directors shall enter the said regulations of toll in their books: and it shall be lawful for the president and directors at all times hereafter to receive the tolls so assessed on all goods, produce and commodities which shall be transported through the navigation of the said company, or any part thereof; and they may demand the toll at such place or places as they shall think proper. And if any person shall refuse to pay the toll so laid as aforesaid, the collector may deny passage: and if any person so refusing to pay, shall pass through the navigation, it shall be lawful for the collector to seize vessel and cargo, wherever found; and after ten days public notice sell the same, or as much thereof, at public auction, for ready money, as

may be necessary to pay the toll and all expenses; and the surplus of such sale, if any, shall be returned to the owner.

Manner of obtaining lands, &c. for buildings.

8. *Be it further enacted.* That the president and directors, or a majority of them, may agree with the proprietors for any quantity of land not exceeding ten acres, at or near the places intended for collecting the toll aforesaid, for the purpose of erecting necessary buildings; and in case of disagreement, a jury of twelve good and lawful men shall be summoned; and their valuation shall be the price which the company shall pay: and in case the proprietor refuse to receive the money, it shall be paid into the clerk's office of the county where the land lieth, and by him recorded, together with the location and bounds of the land; and shall be deemed a conveyance in fee, as fully and amply as if made by the proprietor to the said company. *Provided,* That nothing herein contained, shall be construed to authorise the president and directors to seize on or take any part of the cleared land of any inhabitant, but with his consent.

Manner of transferring shares, &c.

9. *Be it further enacted,* That it shall be lawful for every of the proprietors to transfer his share or shares by deed executed before two witnesses, and registered after proof of execution, in the company's books, and not otherwise, except by devise; which devise shall also be exhibited to the president and directors, and registered before the devisee shall be entitled to receive any part of the profits from the said tolls. *Provided,* That no transfer shall be made for parts of a share, and that no share shall be transferred, or held in trust for the use and benefit, or in the name of another, whereby the president and directors, or any of them, may be made to answer any such trust; but that every such person appearing as aforesaid to be a proprietor, shall as to the rest of the company be considered to every intent as a proprietor; but between any trustee, and the person for whose benefit any trust may be created, the common remedy may be pursued.

Time granted for finishing the work.

10. *Be it further enacted,* That if the said company shall not complete the said navigation within ten years after the passing of this act, the preference in favour of the said company with respect to the said navigation shall be forfeited.

11. *Be it further enacted*, That the said company and their successors, shall be capable of purchasing, holding and selling real and personal estate; and if any person shall be sued for any thing done in pursuance of this act, he may plead the general issue, and give the special matter in evidence; and on a verdict against the plaintiff, or non-suit or discontinuance, recover costs of suit.

Company may hold, &c. real estate.

CHAP. 464.

An act to amend an act, entitled, "An act for ascertaining the damage of protested bills of exchange." (a)

(a See 1741, c. 31, s. 1—1812, c. 844—1817, c. 937.)

1. *Be it enacted, &c.* That where any bill of exchange shall hereafter be drawn by any person residing in this state, for the payment of any sum of money in any of the United States, in which the value is or shall be expressed to be received, and such bill shall be protested for non-acceptance or non-payment, the same shall carry interest from the date thereof after the rate of six per cent. per annum until the money therein drawn for shall be fully satisfied and paid.

Interest on protested bills of exchange,

2. *And be it further enacted*, That where any bill of the foregoing description, which shall hereafter be drawn, shall be protested as aforesaid, there shall be paid unto such person or persons as shall have right to demand the same, for his, her or their damage in that behalf sustained, after the rate of ten per cent. on the sum expressed in the said bill, together with the cost and charges of protest, and no more.

Damages;

3. *And be it further enacted*, That it shall and may be lawful for any person or persons having a right to demand any sum of money due upon a protested bill of exchange of the description aforesaid, to commence and prosecute an action for principal, interest, damages, and charges of protest, against the drawer and endorsers jointly, or against either of them separately, and judgment shall and may be given accordingly.

Manner of prosecuting.

CHAP. 465.

(a See 1756, c. 57, s. 2.) An act to amend an act, entitled, "An act for ascertaining the method of proving book-debts." (a)

Whereas by the before recited act, in all trials at law where the cause of action is a book account, and the plaintiff has no means of proving the same but by his own oath, such oath is sufficient evidence for all articles that have been delivered within two years before the action brought, but not for any article of a longer standing, and no other or further time given to the executors or administrators, whereby great inconvenience may arise to the estate of a deceased person : For remedy whereof,

How book debts may be given in evidence by executors, &c.

1. *Be it enacted, &c.* That from and after the passing this act, in all trials at law where the cause of action may be a book account, and to which executors or administrators may be either plaintiff or defendant, and two years from the delivery of the articles have not elapsed previous to the death of the deceased, in that case such executor or administrator, on proving that he found the account so stated on the books of the deceased, and that he believes the same to be just, shall be at liberty to give such account in evidence, either where he is plaintiff in the suit, or where such account may be pleaded as a set-off against the demand of the plaintiff, although more than two years may have elapsed previous to the bringing such action ; provided suit is brought thereon or set-off pleaded within one year after the death of the deceased or administration granted ; any law, usage or custom to the contrary notwithstanding.

CHAP. 466.

An act to direct the mode of conducting disputed elections in this state, and to direct the mode of presenting petitions to the General Assembly in certain cases.

In disputed elections, notice to be given adverse party.

1. *Be it enacted, &c.* That from and after the passing of this act, it shall not be lawful for any person to vacate the seat of any member of the General Assembly, who has taken his seat in consequence of the return of

the sheriff of his county certifying that he is duly elected, unless the person or persons who may intend to dispute such election, shall give to the member or members whose election he or they intend to dispute, thirty days notice previous to the meeting of the General Assembly, of such his intention, with the ground on which the same will be disputed; and that the same notice of time and place now required in taking depositions at law, (a) shall also be required and proven on such investigation; and all affidavits taken without due notice as aforesaid, shall be deemed improper evidence, and not suffered to be read in such investigation.

(a See 1800, c. 557, s. 1.)

2. And whereas in cases of petitions to the General Assembly for the establishing of separate places of election and general musters, it is highly necessary that notice of such proceedings should be made known to the people; *Be it therefore enacted*, That in all cases where a petition or petitions are presented to the General Assembly for the establishing a place or places of separate elections or general musters, or for removal of the seat of courts of justice in any of the several counties in this state, or for the erecting of a toll-road, ferry or bridge, or of any other public matter wherein the county at large is concerned, such petition or petitions shall not be received, unless it shall be made appear on oath, that previous notice of such intention to apply to the General Assembly, shall be notified at the door of the court-house, and at two other public places at least, of the county wherein such proceedings or new arrangements are to take place, at least thirty days before the sitting of the then next General Assembly. *Provided*, That such notice given at the door of the court-house, during the sitting of the court, at any shorter period, shall be sufficient. And in case when application is intended to be made to the General Assembly by petition, where the interest of two or more counties are concerned, such notice shall be given as aforesaid in both the said counties; and when the interest of a district is concerned, notice of a similar nature shall be given at the door of the district court-house, during the sitting of the superior court which shall next sit preceding the meeting of the next General Assembly.

In applications to the Assembly in certain cases; notice to be given.

3. *And be it further enacted*, That when any private act is applied for, affecting the right of any persons other than the person or persons so applying, notice

Also in certain private acts.

shall be given by the person so applying, of their intention, to the person or persons whose rights may be affected by the passing of the same.

CHAP. 467.

(a Extended to other counties. See 1797, c. 480, s. 1.) An act making compensation to the owners of outlawed and executed slaves, for the counties of Bladen, Halifax, Granville, Cumberland, Perquimans, Beaufort and Pitt.(a)

Manner of valuing convicted slaves, &c.

1. *Be it enacted, &c.* That when a slave shall be tried in any of the counties aforesaid, and shall be found guilty by the jury of any crime, the punishment whereof shall extend to life, the said jury shall fix and ascertain the value of the said slave, and shall give the said valuation in at the time they return their verdict; which said valuation shall be certified by the chairman of the court and given to the owner of the said slave, who shall be entitled to receive two-thirds of such valuation from the sheriff of any of the said counties in which such slave may have been executed.

Also outlawed slaves.

2. *Be it further enacted,* That when any slave shall be legally outlawed in any of the counties within mentioned, the owner of which shall reside in one of the said counties, and the said slave shall be killed in consequence of such outlawry, the value of such slave shall be ascertained by a jury which shall be empannelled at the succeeding court of the county where the said slave was killed, and a certificate of such valuation shall be given by the clerk of the court to the owner of said slave, who shall be entitled to receive two-thirds of such valuation from the sheriff of the county wherein the slave was killed.

Jury to enquire into the treatment of convicted slaves, &c.

3. *Be it further enacted,* That the jury who shall try and return the valuation of any negro by them convicted and valued, shall previously enquire whether the owner of the said slave did or did not feed, clothe and treat him or her with the humanity consistent with his or her situation, except such slave was the property of orphans or minors, which if not proven to their satisfaction, that the owner or owners of said slave did feed, clothe or treat him or her in manner aforesaid, then and in that case the owner or owners shall not be entitled to the benefit of this act.

4. *And be it further enacted*, That the courts of the several counties aforesaid respectively, shall be, and they are hereby authorised and required when necessary, to lay a tax on all black polls, in any of the said counties where the owner or owners of any slaves shall be entitled to receive pay for the same under this act, sufficient to defray the charge of any of the said counties which shall be made by the owner or owners of any slave under this act; and the sheriff of the said counties respectively, shall collect such tax under the same rules and regulations as are prescribed for the collection of county taxes, and shall pay to the owner or owners of the slave or slaves valued under this act, when collected, two-thirds of the valuation, which shall be certified by the chairman of the court where the same was valued; which certificate together with the owner's receipt shall be a sufficient voucher for him in the settlement of his account with the court; and the said sheriff shall account with the court of his county for any surplus money which shall remain in his hands after paying the certificate or certificates, which shall be obtained and paid under this act; which said surplus shall be received by the said court for the purpose of discharging any similar claim that shall be made for the value of any slave under this act. *Provided nevertheless*, That this act and no part thereof shall have effect or be construed to extend to any county in this state not herein particularly mentioned and expressly named, or to negroes belonging to persons living out of this state.

Courts of certain counties authorised to lay a tax on black polls, &c.

CHAP. 468.

An act empowering the county courts of pleas and quarter-sessions in this state, to bind out to proper persons, the children of those who desert their families.

Whereas it appears to this General Assembly, that great inconvenience and heavy charges arise to the citizens of this state, by persons deserting their wives and families, and leaving them burdens on the wardens of the poor:

1. *Be it therefore enacted, &c.* That where any person shall desert his family, leaving them without sufficient support, and be absent from them for the term of one

Justices empowered to bind out certain children.

year, or where application may be made to the wardens of the poor for relief, and the said wardens shall certify the same to the court, the justices of the several courts of pleas and quarter-sessions within this state, shall have power and authority, and are hereby required, upon complaint being made to them of any family being so deserted, to bind out to proper and fit persons the child or children which may be so left or deserted.

CHAP. 469.

An act to make further provision for the widows of intestates.

Whereas under the present existing laws, it is in the power of the administrator to expose to sale the whole crop and provisions of the deceased, and thereby deprive the widow of the means of subsistence for herself and family :

Widow allowed possession of personal estate of intestate till administration is granted.

1. *Be it enacted, &c.* That in all cases where a man shall die intestate, leaving a widow, it shall and may be lawful for the widow to take into her charge and possession the whole of the personal estate of such intestate; and it shall be lawful for the said widow to use so much of the crop, stock and provisions then on hand, as may be absolutely necessary for the support of herself and family, until such time as letters of administration are or may be granted on the estate of her deceased husband, when her right to the possession of the said personal estate by virtue of this act, shall cease. *Provided always,* That it shall be considered the duty of the widow claiming under this act, to apply for administration upon such estate, at the first court which shall be held after her husband's decease, in the county in which he usually resided.

When administration is granted to receive an allotment for one year.

2. *Be it further enacted,* That it shall and may be lawful for such widow, at the same court when letters of administration are granted, to petition the said court to appoint one justice of the peace and three freeholders, unconnected with the said widow; whose duty it shall be to view the estate of such intestate, and to allot and point out such part of the crop, stock and provisions (a) as they may conceive necessary and adequate for the support of the widow and family, for the space of one year; and under their hands and seals make

(a) Provision extended: see 1813, c. 858, s. 1.)

return to the next succeeding court, of the quantity and articles by them laid off, and allotted to the widow and family; having first taken an oath that they will faithfully and impartially, to the best of their knowledge and ability, give and apportion to said widow and family, so much or such part of the crop, stock and provisions as they may deem necessary for the support of the widow and family for one year, and no more.

S. And be it further enacted, That such apportionment or allotment shall vest in the said widow an absolute right therein to her own use and the use of her children, where there may be children; but shall nevertheless be returned in the inventory of said estate by the administrator therein, notifying that the same has been allowed and given the widow for her support; which notification and return of the persons so appointed by the said court, shall exonerate such administrator from being accountable for the same, either to the claimants upon the estate of the deceased, or creditors, and shall not be considered as assets in their hands for which they shall be liable or accountable; and that the said part or portion of the estate so given to the widow, shall not debar her from the distributive share now allowed by law.

Right vested in the widow in such allotment, &c.

CHAP. 470.

An act to amend the several acts now in force respecting the pilotage of Cape-Fear bars and river.

(Altered by 1797, c. 486, s. 1.)

1. Be it enacted, &c. That the commissioners for regulating the pilotage and navigation of Cape-Fear river, shall call on all branches or commissions heretofore granted to the bar pilots, on the twenty-third day of January next, at a meeting to be held for that purpose in Wilmington, of which they are required to give due notice; and the said commissioners shall issue to the said pilots now in commission, and hereafter to such persons as may apply and prove themselves properly qualified, distinct branches confined to one bar alone; that is to say, to certain pilots for the main bar only, and to certain other pilots for the New-Inlet bar only, from which said twenty-third day of January, the former branches or commissions are hereby declared to be utterly void; and in case any pilot shall hereafter offend

New commissions to be granted to Cape-Fear pilots.

against this act, by carrying a vessel over a bar other than that to which he is appointed, except she be in actual distress at sea, such person shall forfeit double the value which the vessel so unlawfully piloted was liable to pay.

Rates of pilot-
age.

(See 1805, c.
691, s. 1.)

2. *And be it further enacted*, That after the said twenty-third day of January next, there shall be paid to the bar pilots of Cape-Fear river, for bringing vessels over the said main bar, and mooring them at Smithville, (if mooring shall be required,) and for bringing vessels over the bar of the New-Inlet, and mooring them at Five Fathom Hole, (if mooring be required,) and the same for taking vessels out to sea from Smithville, and Five Fathom Hole, the following rates, to wit: For every vessel not drawing above six feet water, two pounds two shillings and six pence; every vessel drawing above six feet and not exceeding seven feet, two pounds five shillings and six pence; every vessel drawing above seven feet and not exceeding eight feet, two pounds ten shillings; every vessel drawing above eight feet, and not exceeding nine feet, two pounds eighteen shillings; every vessel drawing above nine feet and not exceeding ten feet, three pounds seven shillings; every vessel drawing above ten feet and not exceeding eleven feet, three pounds fifteen shillings; every vessel drawing above eleven feet and not exceeding twelve feet, four pounds ten shillings; every vessel drawing above twelve feet and not exceeding twelve and an half feet, five pounds; every vessel drawing above twelve and an half feet and not exceeding thirteen feet, five pounds seven shillings; every vessel drawing above thirteen feet and not exceeding thirteen and an half feet, five pounds fifteen shillings; every vessel drawing above thirteen and an half feet and not exceeding fourteen feet, six pounds four shillings; every vessel drawing above fourteen feet, and not exceeding fourteen and an half feet, six pounds thirteen shillings; every vessel drawing above fourteen and an half feet, and not exceeding fifteen feet, seven pounds two shillings; every vessel drawing above fifteen feet and not exceeding fifteen and an half feet, seven pounds fourteen shillings; every vessel drawing above fifteen and an half feet, and not exceeding sixteen feet, eight pounds seven shillings; every vessel drawing above sixteen feet and not exceeding sixteen and an half feet, eight pounds eighteen shil-

lings; every vessel drawing above sixteen and an half feet and not exceeding seventeen feet, nine pounds ten shillings; every vessel drawing above seventeen feet and not exceeding seventeen and an half feet, ten pounds eight shillings; every vessel drawing above seventeen and an half feet, and not exceeding eighteen feet, eleven pounds four shillings; every vessel drawing above eighteen feet and not exceeding eighteen and an half feet, twelve pounds; every vessel drawing above eighteen and an half feet and not exceeding nineteen feet, twelve pounds sixteen shillings; every vessel drawing above nineteen feet and not exceeding nineteen and an half feet, thirteen pounds eighteen shillings; every vessel drawing above nineteen and an half feet and not exceeding twenty feet, fifteen pounds; and for every vessel drawing above twenty feet water, at the rate of four shillings for every inch in addition to the said sum of fifteen pounds.

3. *And be it further enacted*, That the commissioners aforesaid shall have power, and they are hereby authorised and required, to determine and make known on the twenty-third day of January next, and thereafter as occasion may require, to the pilots of the Main and New-Inlet bars, how many decked boats are necessary for the attendance on them respectively; in each of which decked boats any number of said pilots, not exceeding three, may act and be concerned as partners or joint owners; and such of the pilots who shall first provide themselves jointly or severally with proper decked boats to be produced to and approved of by the commissioners, shall be entitled thereafter, and as long as they keep such boat or boats in constant repair, and use the same in attending the said bars, an advance of fifteen per cent. upon the above rates; and if any of the said pilots who have furnished himself or themselves with one or more good sufficient decked boat, shall fail, neglect or refuse to keep such his or their boat or boats in constant repair, and to make use of the same in attending the said bars respectively, it shall not be lawful for such pilot or pilots to ask, demand or receive the above mentioned advance; and should they, or either of them, in case of such neglect or refusal, ask or receive the advanced rates, he or they shall for the first offence forfeit and pay double the rates asked or received, and for the second offence be suspended by the said commission-

Regulations respecting boats, &c.

ers; all of which penalties before mentioned, shall and may be recovered before any jurisdiction having cognizance thereof, to the use of the person suing for the same.

Commissioners
may raise rates
of pilotage, &c.

4. And to prevent further application to the Legislature for the regulating the rates of pilotage for Cape-Fear bars and river; *Be it enacted*, That the said commissioners may raise the rates herein established, for the Main and New-Inlet bars, and heretofore established for the river, as much as in their judgment shall appear proper and necessary, paying due regard to, and making the distinction herein directed of fifteen per cent. or as much more within the bounds herein after mentioned, between those keeping and using decked boats, and those failing or neglecting so to do. *Provided*, such increase of rates do not exceed thirty-three and one-third per cent. on the rates of river pilotage heretofore by law established, and on the rates of pilotage by this act established for the Main and New-Inlet bars: *And provided also*, That no bar pilot whatever, shall be considered as obliged to take charge of any vessel outward bound in order to pilot her over either of the said bars, until the pilotage for which such pilot might or would be entitled to for such service, be previously paid him, or satisfactory security for the payment thereof be given him.

To give notice
thereof.

5. *And be it further enacted*, That when the commissioners of navigation for Cape-Fear shall make any alteration in the rates of pilotage, they shall cause such rates to be set up in the office of the collector of the port, and shall also cause the same to be certified under their hands and annexed to the several pilots' branches.

Repealing
clause.

6. *And be it further enacted*, That all acts, clauses and parts of acts coming within the purview and meaning of this act, shall be and they are hereby repealed and made void.

CHAP. 471.

An act to punish persons for removing debtors out of one county to another, or out of the state.

Whereas it often happens, that debtors are removed from one county to another, and sometimes entirely out

of the state, greatly to the prejudice of their just creditors : For remedy whereof,

1. *Be it enacted*, That from and after the first day of May next, when any person who has resided six months or more in any county of this state, shall be about to remove out of the same, either by land or water, it shall be his duty to advertise his intention of removal in at least three public places of the county, ten days previous to his removing, one of which advertisements shall be set up at the door of the justice of the peace to whom such person may intend to apply for a certificate of his having so advertised, or at such other public place on the premises of said justice as he may direct : And if any person or persons shall remove or knowingly assist to remove any debtor or debtors, out of the county in which he shall have resided, for the space of six months or more, who shall not have advertised himself in the manner as by this act required, and shall have procured a certificate of the same from under the hand of some justice of the peace of the county, then such person so removing, or knowingly assisting to remove such debtor, shall be liable to pay all debts which the person so removed might justly owe, in the county from which he was removed ; which debts may be recovered by the person legally entitled thereto by an action on the case. Provided suit shall be commenced for the same within twelve months from the time the proof of such removal shall come to the knowledge of the person to whom the debt was so due ; any law to the contrary notwithstanding.

Duty of persons
on removing,
&c.

Penalty on as-
sisting such as
do not comply,
&c.

CHAP. 472.

An act appointing commissioners to extend the dividing line between Bladen and Brunswick counties.

Whereas the line between Bladen and Brunswick counties has never been extended, by which means difficulties have arisen as to serving process, also in obliging the inhabitants near where the line is supposed to run, to perform public duties, and other inconveniences have happened and are likely to continue : For prevention whereof,

Commissioners
appointed to
run the dividing
line between
Bladen and
Brunswick
counties, &c.

1. *Be it enacted, &c.* That Thomas Brown, Hugh Waddell, Benjamin Smith, and William E. Lord, Esquires, be and they are hereby appointed commissioners to ascertain and extend the dividing line between Brunswick and Bladen counties, agreeable to the boundaries now in force by the acts of Assembly describing the same, and they, or a majority of them, are empowered to employ on behalf of each county one surveyor and an equal number of chain-carriers and ax-men to perform the necessary duties in the above survey; the expense of which survey shall be defrayed and allowed by each county out of the county tax, that is to say, The county of Bladen shall pay the persons acting and employed in its behalf, and the county of Brunswick those acting and employed in its behalf: and the commissioners, or a majority of them, shall proceed to run and mark the said line on or before the first day of July next; and when completed return a plat and account of their proceedings, under their hands and seals, to the courts of the respective counties which they represent, a minute of which shall be entered on the books of the courts of each county, and then the originals to be delivered by the clerk to the registers of their counties, who are hereby required to record the same without delay; and after making such record, and certifying the same, the registers are required to return the said originals to the clerks of the courts respectively, who shall safely lodge and keep them among the public papers of the county. *Provided nevertheless,* That if the said commissioners should agree to appoint only one surveyor in behalf of both counties, such appointment shall be as good and valid as if one is appointed on each side; and in that case the expense of the one surveyor shall be equally borne by each of the said counties.

Lands secured
according to
date of entry,
&c.

2. And whereas from the said line not being heretofore run, mistakes might have been made by entering lands in one of the said counties which might actually lie in the other, whence law-suits and pernicious consequences may arise, unless an equitable provision be made by law; to remedy such mistakes, and prevent the designing from taking advantage thereof, *Be it enacted,* That when any vacant lands have been entered in either of the said counties through mistake, the same shall have preference and effect according to the date of such entry, as fully as if it had been made in the county

where the said land shall lie, on the extension and marking of the dividing line between the said counties of Bladen and Brunswick ; any law, usage and custom to the contrary notwithstanding.

CHAP. 473.

An act for adding part of the county of Stokes to the county of Surry.

1. *Be it enacted, &c.* That from and after the passing of this act, all that part of the county of Stokes lying south of the Yadkin river, be and the same is hereby added to the county of Surry, to all intents and purposes whatsoever ; but nothing herein contained shall prevent any sheriff, or other collector of any public or county tax, from proceeding to the collection thereof, in the same manner and under the same restrictions as if this act had never passed, any thing to the contrary notwithstanding.

Part of the county of Stokes added to Surry, &c.

Read three times and ratified in General Assembly, }
the 25th day of December, Anno Dom. 1796. }

B. SMITH, S. S.

M. MATTHEWS, S. H. C.

Copy.—J. GLASGOW, Secretary.

At a General Assembly, begun and held at Raleigh, on the twentieth day of November, in the year of our Lord one thousand seven hundred and ninety-seven, in the twenty-second year of the independence of the said state : Being the first session of the said Assembly.

Samuel Ashe,
Esq. Governor

CHAP. 474.

An act to regulate the conduct of grand juries, and authorising courts of record to adjudge the payment of costs in certain cases, empowering sheriffs to take bail on writs of capias.

1. *Be it enacted, &c.* That when an indictment shall be found by any of the grand juries within this state, and a *nolle prosequi*(a) afterwards entered, it shall and may be lawful, on application, for the court in which such indictment was preferred to say and determine

Court to determine on malicious prosecutions.
(a See 1779, c 138, s. 4.)

whether such prosecution was promoted on frivolous or malicious pretences and grounds, if so, to decree that the prosecutor should be subject to pay, and discharge the costs thereof.

Witness's name
endorsed on a
presentment.

2. *And be it further enacted*, That when a presentment shall be made of any offence by the grand jury, upon the knowledge of one or more of their body, the name or names of such grand juror or jurors giving information, shall be endorsed on the presentment; and when any presentment or information shall be made by the grand jury, of any offence upon the testimony of a witness, called upon by the grand jury to give testimony, the name of such witness shall likewise be endorsed thereon.

Manner of per-
sons being
charged.

3. *And be it further enacted*, That no person shall be arrested or charged before any court, on a presentment made by a grand jury, before the attorney acting for the state shall prepare a bill, and the bill found by the grand jury to be a true bill.

Sheriff may take
bail on indict-
ments if a baila-
ble offence.

4. *And be it further enacted*, That each and every sheriff within this state, or his legal deputy, when he shall arrest the body of any person in consequence of the writ of *capias* issued to him by the clerk of any court of record, on and from an indictment previously found, it shall and may be lawful for said sheriff, or his deputy, if the crime charged is bailable, (a) to recognize said offender, and take bail in nature of a recognizance, for his appearing at the next succeeding court of the district or county where such offender ought to answer, and where such bill hath been found; to be guided and directed in this matter by the same rules and regulation as have heretofore governed justices of the peace.

(a See state
constitution, s.
39, p. 51, and
bill of rights, s.
10, p. 42.)

Seals unneces-
sary to be affix-
ed to process in
certain cases.

5. *And be it further enacted*, That in all cases where a clerk of a county court issues process to the county of which he is clerk, it shall not be necessary for him to annex the seal of his office thereto, neither shall it be necessary for the clerk of a superior court to affix the seal of his office to any process by him to be issued to the counties composing the district of which he is the clerk; and if any such seal should be notwithstanding annexed, it shall not be lawful to raise any charge in the bill of costs for the same.

CHAP. 475.

An act to explain and amend an act passed at Fayetteville, in the year one thousand seven hundred and eighty-nine, entitled "An act directing the manner of issuing process in sundry cases arising in the courts of law and courts of equity, and to direct how joint obligations shall survive," and other purposes, as may appear by the title and body of the said act. (a)

(a Sec 1789, c. 314, s. 5.)

1. *Be it enacted, &c.* That in all cases where an executor or administrator shall be sued, with a surviving obligor or obligors, in pursuance of the said act, and it may be necessary that judgment should be rendered against such executor or administrator, such process and judgment may be awarded against the same, as if such executor or administrator had been sued severally, and judgment may be awarded and entered up against the surviving obligor or obligors, as is usual in other cases; such special judgment against the executor or administrator notwithstanding.

How judgments may be entered in certain cases.

2. *And be it further enacted,* That in all cases of joint obligations, or assumptions of co-partners in trade, or others, such suits may be brought, and prosecuted on the same against the whole, or any one or more of such persons making such obligations, assumptions, or agreements; any law or usage heretofore to the contrary notwithstanding.

Suit may be brought against one or more, on joint obligations &c.

CHAP. 476.

An act to declare the law relative to the force and effect of the process *subpœna duces tecum*, and the powers of the courts of the state with regard thereto.

Whereas there are doubts in what cases the process of *subpœna duces tecum* lies, and whether there exists in the courts of the state a power to enforce the same: For remedy whereof,

1. *Be it enacted, &c.* That in all causes in any of the courts of the state, in which the production of an original paper lodged in any of the public offices of the state, or of any district or county therein, becomes necessary, the said courts have power to issue the process of *subpœna duces tecum*, requiring such persons as hold the said offices respectively, to attend the court from

Courts have power to issue process of *subpœna duces tecum*.

whence the said process issues with such original paper, in like manner, and under the same penalties as witnesses are required to attend in cases of a subpoena to testify.

CHAP. 477.

(a Sec 1794, c.
114, s. 20.)

An act to amend the twentieth section of an act, entitled "An act directing the mode of recovering debts of twenty pounds and under."(a)

Whereas the mode pointed out by the said section for returning executions against defendants who have removed out of the county, appears inconvenient and injurious to many of the citizens of this state :

Manner of removing judgment of a justice from one county to another.

1. *Be it therefore enacted, &c.* That from and after the passing of this act, it shall and may be lawful for any person having a judgment or execution against any person from a justice of the peace, and the said defendant has no property in the county wherein the same may be levied, to return the execution to the clerk of the court of the county in which judgment was obtained out of court; and it shall be the duty of the clerk to certify under seal, the justice or justices who gave judgment was an acting justice or justices of said county; on which certificate any justice or justices in any other county in this state, shall and may award execution for the sums therein expressed, against such defendant or defendants; any law to the contrary notwithstanding.

CHAP. 478.

An act to empower executors and administrators to convey lands in certain cases.

Executors, &c.
to execute
deeds for lands
in certain cases.

1. *Be it enacted, &c.* That from and after the passing of this act the executors or administrators of any deceased person, are fully authorised and empowered to execute a deed or deeds of conveyance for any lands, that may have been *bona fide* sold by the deceased, and for which he has given to the purchaser a bond or bonds to convey the same. *Provided* said bond or bonds be first proven in the court of the county where the said lands are situated, if in this state; if not, the bonds to

be proved in the county where the obligee lives or obligor died; and which bond so proven shall be recorded and registered in the register's books of said county; and provided the deeds thus executed, shall not convey other or a greater quantity of land or higher titles, than were specified in said bonds; and all deeds thus executed shall be as good and valid in law, as the same would have been if executed by the original obligor. *And provided also*, That no executor or administrator shall be authorised under this act, to execute titles previous to the full payment of all the purchase monies due for said lands, if the bond of performance specifies that the purchase monies were to be paid before the titles should be made; any law, usage or custom to the contrary notwithstanding.

CHAP. 479.

An act altering the time of the annual general meeting of the Dismal Swamp Canal Company. (See 1799, c. 534.)

1. *Be it enacted, &c.* That hereafter the annual general meeting of the Dismal Swamp Canal Company, shall be held on the fourth Monday in October in every year, instead of the first Monday in September. Annual meeting.

2. *Be it further enacted*, That this act shall continue to be in force so long as a similar act of the commonwealth of Virginia shall be in force. Duration of this act.

CHAP. 480.

An act to amend an act passed in the year one thousand seven hundred and ninety-six, entitled "An act making compensation to the owners of outlawed and executed slaves for the counties of Bladen, Halifax, Granville, Cumberland, Perquimans, Beaufort and Pitt." (See 1796, c. 467, s. 1.)

1. *Be it enacted, &c.* That from and after the passing of this act, the force, meaning and intent of an act passed in the year one thousand seven hundred and ninety-six, entitled "An act making compensation to the owners of outlawed and executed slaves for the counties of Bladen, Halifax, Granville, Cumberland, Perquimans, Beaufort and Pitt," shall be extended to An act extended.

the counties of Warren, Onslow and Chatham, under the same rules, regulations and restrictions in every respect whatsoever, as fully as if they had been mentioned in the said act; and the courts respectively of the counties of Warren, Onslow and Chatham, shall take notice and be bound by the same accordingly; any thing to the contrary notwithstanding.

CHAP. 481.

An act granting further time for proving and registering bills of sale and deeds of gift.

Time of probate, &c. of bills of sale, &c.

(See 1796, c. 459, s. 4, and 1799, c. 540, s. 2.)

1. *Be it enacted, &c.* That all bills of sale taken, and deeds of gift made, and not already recorded in manner required by law, shall have a further time of two years allowed for probate and for registration; and shall when thus authenticated and perpetuated, be held and deemed as valid to all intents and purposes, as if they had been proven and registered within the time required by any law of this state; any law, usage or custom to the contrary notwithstanding.

CHAP. 482.

An act to regulate the register's fees in certain cases therein mentioned.

(See 1807, c. 725.)

Register's fees.

Whereas in many instances the register's fees are inadequate to the service done:

1. *Be it enacted, &c.* That in future the registers in each county in this state, shall and may take for registering each deed or grant where the conveyance is only for one tract of land, including the certificate thereof, four shillings; but if the deed be for the conveyance of two or more tracts of land, he shall be entitled to receive the sum of four shillings for the first tract therein described, and at the rate of one shilling for every other tract mentioned and described in said instrument; and in like manner for all copies executed by him.

CHAP. 483.

An act to amend an act, entitled, "An act to remedy certain inconveniences arising under the present land law," passed in December, one thousand seven hundred and ninety-six. (See 1800, c. 550.)

1. *Be it enacted, &c.* That all lands heretofore entered with any entry-taker in this state, and which have not been paid for, and all lands which shall be so entered in the course of the present year, and shall not be paid for, shall continue and remain the property of the enterers, their heirs and assigns, so far as an entry without the payment of the purchase money to the state, and without obtaining a grant, may be held to vest a title in the same; nor shall any such entries become void, nor shall the lands so entered revert to the state, until the last day of December, one thousand seven hundred and ninety-eight; at which time, and on which day, it is hereby expressly enacted and declared, that all entries now made, or which shall be made up to the time aforesaid, that is to say, that all entries now made, and which shall be made up to the close of the year one thousand seven hundred and ninety-seven, and which shall not be paid for, shall become null, void and of none effect, to all intents and purposes; and the lands which may have been so entered and not paid for, shall, on the first day of January, one thousand seven hundred and ninety-nine, be considered as having reverted to the state, and as being vacant, and shall be liable again by any person to enter and secure the same; and in like manner it shall happen yearly and every year, that is to say, it shall be considered that all lands entered in one thousand seven hundred and ninety-eight, shall be paid for, in all events, in one thousand seven hundred and ninety-nine; otherwise, on the first day of January, one thousand eight hundred, such entries shall lapse, and the lands shall revert to the state, and shall be liable to be entered again by any person wishing the same, in common with other vacant and unappropriated lands; the lands entered in each preceding year being in any event to be paid for in the following or succeeding one; otherwise, and in case of failure, all such entries shall become and shall be held as being null, void and of none effect whatsoever.

Limitation of
land entries, &c.

2. *And be it further enacted,* That from and after the passing of this act, the clerks of the several county Clerk's fees.

(See 1796, c.
455, s. 4.)

courts, for issuing warrants, granting a certificate, and affixing the seal of the county thereto, agreeable to the fourth section of an act, entitled "An act to remedy certain inconveniences arising under the present land laws," shall receive four shillings and no more for all the above services.

CHAP. 484.

An act directing how claims against the state shall be authenticated, and their mode of payment, so far as respects jailers, sheriffs, coroners, clerks of the superior courts, and witnesses for and on behalf of the state.

Whereas the present method of making allowances to jailers, sheriffs, coroners, clerks of the superior courts, and witnesses, having claims against the state, is found inconvenient, expensive, and frequently attended with great uncertainty: For remedy whereof,

1. *Be it enacted, &c.* That all claims in future presented for payment by any of the before described persons, shall be proven and authenticated in the following manner, to wit: the jailer, when he hath a charge against the state for confining and maintaining any person committed to the prison whereof he is the keeper, shall procure the certificate of the clerk of the court where such prisoner was bound to answer, shewing forth for what cause the criminal was confined, how indicted, convicted, punished and discharged, with the seal of the court thereto; also a certificate from the sheriff of the county where such criminal was confined, stating whether or not such criminal was possessed of any visible property, either at the time when the crime was committed, or afterwards, if any, how the same was disposed of, and in what manner such prisoner was discharged from jail; together with the affidavit of said jailer, taken in open court, setting forth his claim particularly, that he knoweth of no property subject to said costs, and that he hath received no satisfaction therefor. The sheriff, or his deputy, when he shall have a demand against the state for services by him performed, in taking, securing, conveying or punishing any criminal, it shall be necessary for him to state at large the several items of his account, swear to it in the court of the

Claims against
the state how
authenticated.

Jailer.

Sheriff.

county whereof he is sheriff, setting forth that he hath received no satisfaction for his said demand, and that there is no property to his knowledge subject to his said charges. The coroner, when he shall prefer a charge for holding an inquest, shall make oath to his claim in the court of the county whereof he is coroner, and procure the seal of the same to be thereunto annexed; and when his charge is for performing and executing the duties of a sheriff, it shall be authenticated in the same manner, and under the same rules whereby sheriffs are bound. The clerk of any superior court, when he shall charge the state, it shall be necessary for him to state and make out his claim at large, and swear to the same before the judge or judges holding his court; setting forth in his said affidavit for what cause the prisoner was indicted, how punished or discharged; that he believes there is no property subject to the costs of said prosecution, and that he hath received no satisfaction for any part of said claim; which affidavit shall be subscribed by said clerk, and attested by the judge or judges before whom it was made. A witness, when it is necessary for him to prefer a claim against the state for payment, it shall be considered his duty, besides swearing to the amount of his claim, as heretofore prescribed by law, also to make oath in some court of record, that he hath received no satisfaction therefor; and also shall procure the certificate of the clerk of the court to which he was bound or summoned, setting forth that he or she was bound or summoned to give evidence in behalf of the state, the nature of the crime, and how the criminal was disposed of.

Coroner.

Clerks of superior courts.

Witness.

2. And whereas doubts have arisen respecting clerks of the superior courts and sheriffs, for services by them performed on part of the state; to remove which, and to ascertain with accuracy and precision said fees: *Be it further enacted*, That each and every clerk of the above description, shall for services by him rendered in criminal matters, be allowed the following fees, to wit: For indictment, calling the prisoner to the bar, charging or arraigning him, receiving and entering his plea at length, the sum of ten shillings; for each recognizance, two shillings, to be paid so far as respects the person admitted to bail and his securities at the time when taken; for each subpœna, two shillings; for the trial, entering up final judgment, and issuing a copy of

Clerk of superior court's fees for state services.

(Altered by 1806, c. 693, s. 16.)

the sentence of the court, eighteen shillings ; and for each continuance of an indictment, four shillings.

Sheriff's fees.

3. *And be it further enacted*, That each and every sheriff within this state, or the person acting for and substituting his place, shall be allowed the following fees for services by them rendered on part of the state, to wit : For apprehending any criminal, ten shillings ; for conveying any person in his custody, for a criminal offence, to the jail where such person ought to be conveyed, at the rate of six pence per mile ; for each person composing the sheriff's guard, three pence per mile ; and four shillings for each day such sheriff shall maintain such prisoner ; for carrying any sentence or decree of the court into execution, where the convict is to be corporally punished, except that of death, ten shillings ; and for the execution and decent burial of any felon, the sum of five pounds.

Proceedings before claims are to be allowed, &c.

(a See 1809, c. 769. County trustee to pay.)

4. *And be it further enacted*, That no claim authorised by this act, shall be allowed, (a) until a *feri facias* shall have first issued, to the county or counties in which the criminal may be supposed to have owned property, and the sheriff's return that no property is to be found ; and if the criminal is at large without taking the oath of insolvency, it shall be the duty of the clerk to issue his writ of *capias ad satisfaciendum*, and the duty of the sheriff to arrest the body of the said criminal, if to be found, and him confine until he either pays off the costs of prosecution, or discharges himself by taking the oath of insolvency ; neither shall any claim be allowed under this act after the expiration of three years next succeeding the trial and final decision of the prosecution out of which such claim arose ; and all claims now existing, shall be barred after the expiration of three years next after the passing of this act.

To prevent frauds, &c.

5. And in order to prevent frauds and impositions : *Be it further enacted*, That all accounts and claims rendered and made out under and by the authority of this act, shall be in words at length, without any abbreviation ; and any claim, demand or account rendered otherwise, shall be held and deemed improper and illegal. *Provided*, That this clause shall not be construed as to affect any claim now existing, or which may exist before the first day of June next.

CHAP. 485.

An act to provide for the punishment of accessaries to felonies in certain cases.

Whereas principal felons frequently escape and elude the process of law, whereby accessaries cannot be prosecuted and punished : For remedy whereof,

1. *Be it enacted, &c.* That from and after the passing of this act, it shall and may be lawful to prosecute and punish any accessory to felony, as for a misdemeanor ; to be punished by a fine not exceeding fifty pounds, and corporal punishment not exceeding thirty-nine lashes, or standing in the pillory not exceeding two hours, although the principal felon be not before convicted of said felony ; which shall exempt the offender from being punished as accessory, if the principal shall be afterwards convicted.

Accessaries to felonies, how punishable, &c.

2. And whereas felons are much encouraged to the commission of enormous crimes, because many persons make it their business and trade to receive and buy of such felons the property by them so feloniously taken, and also to make it their business to conceal such offenders after the said fact, knowing such felonies to be by them committed ; *Be it therefore enacted,* That if any person shall receive or buy any property that shall be feloniously stolen or taken from any other person, knowing the same to be stolen ; or shall harbour or conceal any such felon, knowing him, her or them to be so ; such person or persons shall be taken and received as accessaries to said felony, and may be prosecuted as for a misdemeanor, and punished as set forth in the preceding clause, although the principal felon be not before convicted of said felony ; which shall operate as a bar, and prevent the offender from being punished as accessory, if such principal felon shall be afterwards taken and convicted. *Provided always,* That nothing in this act shall be so construed as to prevent accessaries to felonies from being prosecuted and punished as heretofore directed by law.

Receivers of stolen property, &c. how punishable, &c.

CHAP. 486.

(a See 1796, c. 470.) An act to amend an act, entitled, "An act to amend the several acts respecting the pilotage of Cape-Fear bars and river." (a)

Privilege given
to certain pilots,
&c.

1. *Be it enacted, &c.* That from and after the first day of January next, the pilots now having branches or commissions, or who may hereafter have branches or commissions to pilot over the main bar or New-Inlet bars of Cape-Fear river, shall be entitled to pilot and navigate vessels into port over either bar; and the pilot who shall bring a vessel into port over either bar, shall be entitled exclusively to navigate the same vessel out of port over either bar. *Provided always*, when any vessel shall be ready to go out of port, and such pilot so exclusively entitled, does not attend to navigate the said vessel out of port, the captain or master of such vessel may employ any other pilot to navigate such vessel out of port; provided such other pilot so by the captain or master to be employed, shall be a branch or commissioned pilot for the bar over which such vessel is to be navigated out; and every pilot who shall navigate a vessel out of port contrary to the meaning of this act, shall for every such offence forfeit and pay the sum of nineteen pounds, to be recovered before any jurisdiction having cognizance thereof, to the use of the pilot or pilots who by this act would have been entitled to navigate said vessel or vessels out of port; any law, usage or custom to the contrary notwithstanding.

Regulation res-
pecting conta-
gious diseases.

2. *And be it further enacted*, That if any pilot of Cape-Fear shall bring any vessel beyond the place fixed and limited, or to be fixed and limited by the said commissioners of navigation, without a certificate of the health officer, declaring that there is no danger to be apprehended from any contagious or infectious disease on board said vessel, such pilot shall forfeit his branch or commission, and from thence afterwards be held and deemed incapable to act as a pilot in any part of this state.

Repealing
clause.

3. *And be it further enacted*, That all acts and parts of acts coming within the purview and meaning of this act, shall be, and they are hereby repealed and made void.

CHAP. 487.

An act for relief of securities, who have paid money for and on account of their principal.

Whereas great injury and injustice is frequently done to the securities of many persons, against whom judgment has been obtained, by compelling such surety who has paid the debt, to institute suit against such principal, and wait the delays of court before he can be reimbursed: For remedy whereof,

1. *Be it enacted, &c.* That from and after the passing of this act it shall and may be lawful for any person or persons whatsoever, who have paid any sum or sums of money for and on account of those for whom they become security, upon producing to the county court, or any justice of the peace who may have jurisdiction of the same, a receipt, and that an execution has issued, and that he has satisfied the same, and making it satisfactorily appear by indifferent testimony, that he has laid out and expended any sum or sums of money as the security of any person, to move such court or justice of the peace, as the case may be, for judgment against his principal, for the amount of the sum which he has actually paid out and expended, a citation previously issuing against the principal, to shew cause why execution should not be awarded; and should not the principal shew sufficient cause to the court or justice of the peace, it shall and may be lawful for such court or justice of the peace, to award execution thereon against the goods and chattels, lands and tenements of the principal; any law, usage or custom to the contrary notwithstanding.

Mode of redress
for securities.

2. *And be it further enacted,* That all acts and clauses of acts, that come within the purview and meaning of this act, be, and the same are hereby repealed and made void.

Repealing
clause.

CHAP. 488.

(See 1795, c. 433, 1798, c. 517.)

An act to amend an act passed in the year one thousand seven hundred and ninety-five, entitled "An act to amend the several laws heretofore passed concerning court-houses and prisons, and to provide for the safe-keeping and humane treatment of persons in confinement," and to revive and continue in force the eleventh section of said act.

Treasurers of public buildings to be appointed.

1. *Be it enacted, &c.* That the several county courts in this state, shall annually hereafter at the same time that they appoint their sheriffs, appoint a suitable person residing within the county to act as treasurer of public buildings; whose duty shall be the same, who shall enter into bond in the same manner, and be entitled to the same compensation for his services, as the treasurers of public buildings heretofore appointed.

To settle their accounts annually, &c.

2. *And be it further enacted,* That the treasurer of public buildings in the several counties of this state, shall, and they are hereby expressly required at the next term for electing sheriffs in their respective counties, and at the same term annually, and previous to the elections taking place, to settle their accounts with the court, in the manner directed by the above recited act, and that their offices under their former appointment shall then cease and expire. And if any treasurer of public buildings shall fail or refuse to settle with the court of his county, as above directed, his successor in office, on giving him ten days previous notice, shall have full power and authority, and is hereby expressly required to enter up judgment in the court of his county, and award execution against the body, goods and chattels, lands and tenements of such treasurer, for all such sums of money as can be made appear to the court he has received for the purposes pointed out in the before recited act, with interest from the day of receiving such sum or sums; or if in settling their accounts, any of the treasurers of the public buildings shall fail or neglect to pay the balance which shall appear to be due from him, his successor shall have the same power, on giving similar notice, to enter up judgment, and award execution against him for such balance; any law, usage or custom to the contrary notwithstanding.

Treasurers make the former commissioners account.

3. And whereas doubts have arisen, whether the treasurers of public buildings are fully authorised by the before recited act to commence suits against former

commissioners, who may have county or district monies in their hands, for the purpose of repairing or erecting the public buildings: *Be it therefore enacted*, That the treasurers of public buildings shall have full power and authority, and they are hereby expressly required to commence suits against any such commissioner or commissioners who may have any such monies, and who shall refuse or neglect to settle with them when called on, or who shall refuse or neglect to pay the balance which shall appear to be due from them on such settlement.

CHAP. 489.

An act to suspend all such clauses of acts heretofore passed, authorising and requiring the secretary of state to issue warrants to any officers or soldiers of the late continental line of this state for military services; and to suspend the issuing of grants for lands in certain cases therein mentioned for a limited time; and to establish a board for the investigation of frauds suggested to have been committed in the secretary's office. (See 1798, c. 499.)

1. *Be it enacted, &c.* That from and after the passing of this act all such clauses of acts heretofore passed, authorising and directing the secretary of state to issue warrants for lands to any of the officers or soldiers of the late continental line of this state for military services, be, and the same are hereby suspended for one year from the rise of the present General Assembly. Certain clauses of acts suspended.

2. *And be it further enacted*, That no grant shall be made out or in any manner executed by the secretary upon any return of survey that now is, or hereafter may be returned into his office, by any surveyor of military lands, for the space of one year from the rise of the present General Assembly. Suspension of military grants.

3. *And be it further enacted*, That no grant shall issue on any warrant of survey now in the secretary's office, or which may hereafter be made and returned there on warrants issued out of the office lately kept by John Armstrong, for the space of one year from the rise of the present General Assembly as aforesaid; and every grant or grants made out or executed contrary to the true intent and meaning of this act, shall be utterly void, and of no effect. Grants on warrants of Armstrong's office suspended.

Comptroller in
certain cases to
issue warrants.

4. *And be it further enacted*, That the comptroller be, and he is hereby authorised and required, on application, to issue warrants for lands entered in the office of John Armstrong, in all cases where it shall appear by the entry books now in his office, that the purchase money hath been fully paid; and in no other case whatever shall warrants be issued by him.

No duplicate
warrant to issue.

5. *And be it further enacted*, That no duplicate of a warrant shall issue on any entry, the warrant on which may be suggested to have been lost, under any pretence whatever.

Board of com-
missioners ap-
pointed, &c.

6. *And be it further enacted*, That three commissioners be appointed, who shall form a board, and shall meet in the city of Raleigh on the first day of March next, and shall continue to sit from that time till the commencement of Hillsborough superior court, if so long shall be necessary; and the board when so convened, shall have full power, and they are hereby authorised to appoint a clerk, who shall receive thirty shillings per day.

Their duty.

7. *And be it further enacted*, That the board, when so formed, shall proceed to examine the papers whereon military warrants have been obtained, and the plats and surveys whereon military grants have been executed; likewise the documents whereon grants have been executed on warrants issued out of the entry office lately kept by John Armstrong: and on such examination report the special facts of any fraud by them discovered to have been committed, with the names of the persons concerned, to the governor for the time being; who is directed to lay the same before the attorney or solicitor-general of this state, who are likewise directed to take the necessary order thereon, for the purpose of bringing to justice such persons as have been guilty of any fraud, either in the said secretary's office, or in the office of Martin Armstrong aforesaid; and all other species of frauds which may have been committed, of what kind or nature soever, in obtaining warrants or grants out of the said offices.

To state their
transactions, &c.

8. *And be it further enacted*, That the commissioners appointed by this act shall lay before the next General Assembly a statement of all their transactions, and of what discoveries by them made, with their opinions on the same.

9. *And be it further enacted*, Three persons shall be appointed by joint ballot of both houses of this Assembly as commissioners aforesaid; and they, or any two of them, shall immediately take into possession the papers deposited in the secretary's office, and examine the same; and they are hereby authorised to select and hold out of said papers such part thereof as to them shall appear to be necessary and material for the detection of frauds or forgeries, and the conviction of any person or persons concerned therein; and also all papers which shall appear to them necessary or material for the support of any article of impeachment, which may hereafter be preferred against any officer of the government, or for the conviction of such officer on trial; and after such examination and selection, and not before, shall deliver over to the secretary of state the papers of said office, except such as they shall have so selected.

Power to examine papers, &c.

10. *And be it further enacted*, That the said commissioners be directed and required to make report to the next General Assembly, of all the warrants and grants issued from the secretary's office of this state for military lands; and that they be directed to distinguish in their report such as have been obtained on fraudulent or forged certificates, setting forth the quantity of land contained in each.

Warrants and grants to be reported, &c.

CHAP. 490.

An act making compensation to the county court jurors of New-Hanover, Surry, Stokes, Buncombe, Orange, Cumberland, Montgomery, Wilkes, Sampson, Carteret, Burke, Richmond and Randolph.

1. *Be it enacted, &c.* That in future each and every juror who shall be appointed and summoned, and shall regularly attend the county court of New-Hanover,^(a) shall be allowed the sum of eight shillings for each and every day's attendance, and the sum of eight shillings for every thirty miles travelling to and from said court.

Allowance to jurors in New-Hanover.
(a) Extended to talismen: private acts, 1817, c. 86.)

2. *And be it further enacted*, That in future each and every juror who shall be appointed and summoned, and shall attend the county courts of Surry, Stokes, Buncombe, Orange, Cumberland, Montgomery, Wilkes, Sampson^(b), Carteret, Burke, Richmond and Randolph, shall be allowed the sum of five shillings for each and

And in certain other counties.

(b) One dollar allowed for this county: see pri-

vate acts, 1819, every day's attendance, and the sum of five shillings
c. 47.) for every thirty miles travelling to and from said courts.

Certificate to be
granted, &c.

3. *And be it further enacted*, That each and every juror shall obtain from the clerk of his said court a certificate, in the same manner and under the same rules as certificates are obtained from the clerks of the superior courts for like services; which shall be paid by the trustees of the several counties aforesaid respectively, under the same rules and regulations as are prescribed for the payment of certificates for the attendance of jurors at the superior courts.

Tax to be levied, &c.

4. *And be it further enacted*, That the county courts aforesaid respectively shall, and they are hereby authorised and required to lay a tax in their respective counties on each and every white and black poll, not exceeding one shilling; and upon every hundred acres of land, not exceeding four pence; and upon every hundred pounds value of town property, not exceeding one shilling; so as to raise a sufficient sum in each and every county as aforesaid for the payment of said jurors; which tax the county courts aforesaid shall continue to lay from year to year.

Former act repealed.

5. *And be it further enacted*, That the whole and every part of an act passed at Raleigh, in the year one thousand seven hundred and ninety-six, making compensation to the county court jurors, is hereby repealed and made void.

CHAP. 491.

(a See 1796, c. 463—1815, c. 897.) An act to amend an act, entitled, "An act to improve the navigation of Cape-Fear river, and Deep and Haw rivers.(a)

Whereas the time appointed by the before recited act is found inconvenient for the meeting of the proprietors of the Cape-Fear, Deep and Haw Rivers Navigation Company :

Annual meeting, &c.

1. *Be it enacted, &c.* That the future annual meetings of the proprietors aforesaid, shall be on the second Monday in February, at Pittsborough, or at any other place within the county of Chatham, which they may find hereafter to be more convenient to adjourn to.

Power to remove obstructions, &c.

2. *Be it further enacted*, That the president and directors of the company aforesaid, shall have power to

remove, or shall cause to be removed, all fish-dams, traps, hedges or other obstructions, except mill-dams, which they shall deem to be in the way of the navigation of the rivers aforesaid. *Provided*, That the said president and directors shall not have power to remove the said traps or stands until they shall have completed the navigation of the said rivers up to the places where such fish-traps and stands are situated.

3. *And be it further enacted*, That the president and directors shall have full power and authority to close their books of subscription whenever they shall think proper so to do. To close the books of subscription.

4. *Be it further enacted*, That the twelfth section of the before recited act, is hereby repealed and made void. Part of an act repealed.

Read three times and ratified in General Assembly, }
the 23d day of December, Anno Dom. 1797. }

B. SMITH, S. S.

M. MATTHEWS, S. H. C.

Copy.—J. GLASGOW, Secretary.

At a General Assembly, begun and held at the city of Raleigh, on Monday the nineteenth day of November, in the year of our Lord one thousand seven hundred and ninety-eight, and of the independence of the United States of America the twenty-third: It being the first session of this Assembly. Samuel Ashe,
Esq. governor.

CHAP. 492.

An act to amend the revenue laws as respects the land tax.

Whereas the present mode of selling lands for the taxes thereof, is insufficient to secure the collection of that part of the revenue: For remedy whereof,

1. *Be it enacted, &c.* That from and after the thirtieth day of March next, when any lands shall by the laws of this state become liable to be sold for the taxes of the same, it shall be the duty of the sheriffs respectively, to set up the whole of the lands belonging to any one person or company, for which the taxes thereon shall be due, to be sold to the person who will pay the amount of the public, county and poor taxes, with all charges for advertising the same agreeably to law, for Sheriffs' duty in selling lands for taxes.
(See 1796, c. 443, s. 2.)
(Time given to redeem—see 1805, c. 676, s. 1, 1819, c. 1006, s. 3.)

the smallest part thereof; and he shall strike off the quantity so bid or offered to be taken, for the amount of the taxes and charges aforesaid, to the person offering to take the smallest number of acres of the land for the taxes and charges as before mentioned.

Purchasers may make choice.

2. *And be it further enacted*, That the person purchasing lands at any sheriff's sale, for the taxes under this act, shall be at liberty to make choice of the quantity of land so struck off to him, out of any part of the land offered for sale, to be laid off in one compact body, as nearly in a square as can be, and adjoining to some of the outlines of such tracts or parcels of land.

How to obtain titles.

(a See 1808, c. 760—time extended to 18 months.)

3. *And be it further enacted*, That when any person shall purchase land under this act, they shall within ninety days(a) after such purchase, present to the sheriff a fair plat of the land they make choice of under such purchase; which plat shall be made by the county surveyor or his deputy from actual survey, with the courses and distances fairly set forth and certified under his hand; which said survey shall be made at the expense of such purchaser, and the sheriff shall execute and deliver to him a deed for the same.

Such lands devolve to the state in certain cases.

(Time to redeem—see act 1805, 676, s. 1.)

4. *And be it further enacted*, That if no person shall bid a smaller quantity than the whole, then the whole of the said land so set up shall be considered as a bid for the governor, and the sheriff shall strike off the same to him accordingly, and execute a good and sufficient deed of conveyance to him and his successors in office, in manner hereafter directed for the use of the state.

Sheriffs' duty in conveying the same.

5. *And be it further enacted*, That it shall be the duty hereafter of the several sheriffs respectively, to perfect the said deed or deeds by signing, acknowledging and delivery thereof, in the presence of the next ensuing county court for the county where the said land shall be, and the clerk shall accurately register the same in a book to be kept by him for that purpose, which registration shall be deemed valid; and it shall be the further duty of the clerk after having recorded the deed as aforesaid, to certify the same thereon, and deliver the same to the sheriff (who shall call on him for the same) within twenty days after the rising of the court at which such deed shall have been acknowledged; and the said clerk neglecting to perform and deliver the same to the sheriff as aforesaid, shall be liable to a

Clerk's duty.

Penalty.

penalty of five hundred pounds, to be recovered against him by the attorney or solicitor-general, for the use of the state, in any court having cognizance thereof, by motion; first giving to the said clerk ten days previous notice of such motion.

6. *And be it further enacted,* That it shall be the duty of every such sheriff before he settles his account with the comptroller, to deposit such deed or deeds in the office of the secretary of state, who shall record and keep the same in his office for the benefit of the state; and the said lands so conveyed shall be deemed vacant lands, and liable to entry accordingly; and the secretary of state shall grant a certificate to such sheriff, setting forth the quantity of land so conveyed to the governor; which certificate shall be returned by such sheriff to the comptroller; and such sheriff in addition to the oaths heretofore taken on his settlement with the comptroller, shall also swear that he has conveyed to the governor in conformity to the requisitions of this act, all lands by him sold for the taxes thereof, and purchased as aforesaid for the use of the state; and if any sheriff shall fail or refuse so to do, the comptroller shall in his report to the treasurer charge such sheriff so failing or refusing, with the sum of one thousand pounds in addition to the penalties heretofore directed by law, who shall recover the same for the use of the state, in the same manner as other monies are by the present existing laws recovered against sheriffs and other revenue officers.

Further duty of sheriffs.

Penalty.

7. *And be it further enacted,* That each respective sheriff shall be allowed in his settlement with the comptroller (the requisites of this act being complied with) the amount of the tax on all lands so purchased, together with the costs of advertising and recording, and shall also be allowed commissions on the same as if the money had actually been collected; and such sheriff shall also be credited in his settlement with the county treasurer and with the wardens of the poor, for such of the county and poor tax as the said lands, agreeably to the directions of this act, may be sold to satisfy.

Allowance:

8. *And be it further enacted,* That any person purchasing lands sold for the taxes due thereon, shall be considered as taking and holding the same, subject to the taxes accruing and growing due thereon from the first day of April next preceding the time of his purchase.

Purchasers subject to accruing taxes.

CHAP. 493.

An act to amend the several acts of Assembly now in force in this state which respect the entering and obtaining titles for lands.

Certificate of the clerk, &c. sufficient voucher for the secretary to issue grants.

(See 1795, c. 445, s. 6.)

1. *Be it enacted, &c.* That so much of the proviso of the sixth clause or section of the seventeenth chapter of the act of one thousand seven hundred and ninety-five, as requires that the receipt of the entry-taker shall be sworn to in open court, attested by the clerk, and sent sealed up to the secretary's office, be and the same is hereby repealed; and henceforward a certificate of the clerk of the court with the seal annexed, stating that the person claiming a grant was qualified in open court, and did make oath that the purchase money for the lands claimed was paid to the entry-taker by or for him, shall be a sufficient voucher for the secretary to issue the grant on, whether the same shall be handed to him sealed up or otherwise.

Secretary to issue grants in certain cases.

(See 1801, c. 369.)

2. *And be it further enacted,* That henceforward it shall and may be lawful for the secretary of state on application, to issue grants on all entries made previous to one thousand seven hundred and eighty-three, without requiring from the applicant any proof that the purchase money has been paid to the state. *Provided,* That the entries on which grants are prayed for, appear on the transcript of the entry-taker's books lodged in his office, and correspond with the warrants returned to him; which requisite shall be dispensed with in all cases applying to the counties of Chatham and Guilford.

Section of an act repealed.

(a This section repealed by 1801, c. 578, and the 3d section of 1796, c. 455, re-enacted.)

3. *And be it further enacted,* That the third clause or section of an act of the General Assembly, passed in the year one thousand seven hundred and ninety-six, entitled, "An act to remedy certain inconveniences arising under the present land laws," be and the same is hereby repealed and made void; and that henceforward no duplicate warrant for lands shall be issued but on application by petition to the General Assembly. (a)

Sections of an act repealed.

Time allowed to perfect titles, &c.

4. *And be it further enacted,* That the eighth and eleventh clauses or sections of the above recited act, be and they are likewise hereby repealed and made null: and that twelve months longer, that is to say, until the first day of January, which shall happen in the year one thousand eight hundred, be given to the enterers of

lands first described in the fourteenth section of the said act, to wit, entries made since the fifteenth day of November, one thousand seven hundred and seventy-seven, to accomplish their surveys and perfect their titles, the provisions of the said sections or clauses to the contrary notwithstanding.

5. *And be it further enacted*, That all entries of lands since the eighth day of February, one thousand seven hundred and ninety-five, and up to the first day of January, one thousand seven hundred and ninety-eight, shall yet have until the first day of October next, to pay the purchase money for the entries respectively to the state; after which period all entries made since the eighth day of February, one thousand seven hundred and ninety-five, and up to the first day of January, one thousand seven hundred and ninety-eight, which shall not be paid for, shall be held and deemed lapsed entries, and shall be considered utterly void and of none effect; all lands so entered as aforesaid and not paid for being thenceforward held vacant and unappropriated, and subject to be entered by any person willing to secure them.

6. *And be it further enacted*, That the secretary of state shall not issue any grant or grants on entries of lands hereafter to be made, except to such person or persons, or their heirs, as made said entries.

CHAP. 494.

An act to amend the fifth section of an act, chapter sixteenth, passed at Raleigh, on the second of November, one thousand seven hundred and ninety-five, providing among other things for the suppression of insurrections. (a)

1. *Be it enacted, &c.* That when any two justices of the peace shall know, or have any reason to believe that any conspiracy hath taken place to promote insurrection among the slaves or people of colour, or that there may be danger of such measures taking place, it shall be their duty to issue an order to the sheriff of the county, or his deputy, to summon the magistrates of the county to meet at the court house on some day fixed by said order, which it shall be the duty of the sheriffs to obey; and if a majority of the magistrates present, shall be of opinion that any such combination exists, or that there

(See 1796, c. 455, s. 8, 11.)

And to pay the purchase money.

(See 1799, c. 525, s. 1.)

Grants to whom to issue.

(a See 1795, c. 444, s. 5.)

Duty of justices of the peace.

(See 1802, c. 618.)

may be danger of an insurrection, they shall immediately, by express, make a representation thereof to the governor of the state for the time being; and the governor shall by warrant, order the expense of said express to be paid out of the treasury.

Governor's
power.

2. *And be it further enacted*, That when the governor shall receive such representation made as aforesaid, he shall be and he is hereby authorised to issue orders for a patrol of the militia, with such instructions to the commanding officer or other officer of the county, as the exigency of the case may require.

Governor in cer-
tain cases to or-
der out militia.

3. *And be it further enacted*, That when application shall be made to the commanding officer of the county, or other officer of the militia, under the said act, passed in the year one thousand seven hundred and ninety-five, it shall be the duty of such officer to report the same immediately to the governor for the time being, who shall thereon take the necessary measures, by ordering out a sufficient body of the militia to preserve and ensure the public safety, who shall when ordered out as aforesaid, be governed by the before recited act, passed in the year one thousand seven hundred and ninety-five.

CHAP. 495.

An act directing the sale of the Tower-Hill lands lying within the county of Lenoir.

Commissioner
appointed to
make sale, &c.

1. *Be it enacted, &c.* That William White, Esq. be and he is hereby appointed commissioner, for the purpose of selling the Tower-Hill lands, in the county of Lenoir, formerly purchased by the province of North-Carolina for its use from Arthur Dobbs, Esq. and the said commissioner is hereby authorised, empowered and required to sell the said lands at public vendue, first giving sixty days notice by advertisement in the Newbern Gazette, of the time, place and terms of said sale.

Terms of sale,
&c.

2. *Be it further enacted*, That the purchaser or purchasers of said lands shall have a credit of one year for one-third of the purchase money, and a credit of two years for the remaining two-thirds, upon entering into bond with sufficient securities payable to the governor, or his successors in office, for the use of the state; and the said bond shall be lodged in the treasury of this

state: And the governor is hereby authorised and required to convey said lands so sold, to the purchaser thereof in fee-simple. And that the said commissioner shall be allowed the sum of two and an half per cent. commissions for performing the duties required by this act, to be paid by the treasurer.

CHAP. 496.

An act to regulate the practice of attornies in the several courts of law and equity within this state, and to prevent abuses in the same.

Whereas the relation between attorney and client or suitor in any of the courts of law or equity within this state, should always be clearly known, and admit of the easiest proof possible;

1. *Be it therefore enacted, &c.* That every attorney in any of the courts of law and equity in this state, who shall claim to enter an appearance for any person or persons whatsoever in any of the said courts, shall produce and file in the clerk's office of the court in which he may so claim to enter an appearance, a power or authority to that effect signed by the person or persons, or some one of them, for whom he is about to enter an appearance, or by some person duly authorised in that behalf. *Provided nevertheless,* That where any attorney in any of the said courts shall claim to enter an appearance by virtue of a letter to him directed, whether such letter purport a particular or general employment, it shall be necessary for said attorney to retain said letter in his own possession, and shall on production of said letter setting forth such employment, be allowed to enter his appearance; and it shall be the duty of the clerk to note to that effect upon the docket.

Attornies claiming to enter an appearance, how to proceed.

2. *And be it further enacted,* That in all cases where any attorney shall fail to make appear his employment by his client or clients, in any suit or suits in any of the said courts, he shall not be entitled or allowed to enter an appearance to any suit or suits in said courts, and the same proceedings shall be had thereon as in all cases where no appearance is entered to law doth belong. *Provided nevertheless,* That this act shall not have effect until the first day of May next.

Penalty on failing, &c.

CHAP. 497.

An act to amend an act, entitled, "An act to prevent abuses in taking up stray horses, cattle, hogs and sheep, and other things, passed in the year one thousand seven hundred and seventy-seven; and to amend another act, entitled, An act for making provision for the poor, and other purposes," passed at Newbern, in one thousand seven hundred and seventy-seven.

Whereas it is represented to this General Assembly, that in many counties in this state the rangers have received that proportion of the value of strays from the taker-up, which according to the direction of the above recited act, the taker-up should have paid to the county treasurer; and there being no law to compel such rangers to account for and pay such sums over to the county trustee: For remedy whereof,

Duty of county trustee, &c.

(See 1777, c. 119, s. 6.)

1. *Be it enacted, &c.* That wherever it can be made appear that any ranger, or any person acting as deputy ranger, has received or shall hereafter receive any sums of money, which by virtue of the above recited act ought to have been paid by the taker-up to the county treasurer, it shall be the duty of the county trustee, and he is hereby authorised to call on such ranger or person acting as deputy ranger, for the payment of such money; and on failure of any such person to settle and pay as herein described, he shall forfeit and pay the sum of one hundred pounds, and be further liable to the suit of the county trustee for such sums as can be proved to have been paid by the taker-up of strays, over and above the ranger's own fees.

Duty of rangers, &c.

2. *Be it further enacted,* That it shall be the duty of the several rangers within this state to make return of the strays by him entered, to his county court which shall happen after the first day of February in each and every year, under the penalty of ten pounds, to be sued for and recovered to the use of the county by the county trustee, under the direction of the court, before any justice of the peace; which return the clerk of the court shall copy and deliver the same to the county trustee, to the end that he may proceed to the collection of the money due.

Wardens of the poor to settle with their successors.

3. And whereas it does not appear that there is any provision made in the last recited act, to oblige the wardens or overseers of the poor at the expiration of the time for which they were appointed, to settle with

and pay over such sums of monies as may remain in their hands: For remedy whereof, *Be it enacted*, That from and after the passing of this act, it shall be the duty of the persons who have been wardens of the poor, to call upon, settle with and pay over to their successors in office, all monies remaining in their hands unappropriated, which they may have received by virtue of their appointment as wardens or overseers of the poor; and on failure thereof, each warden shall forfeit and pay the penalty of fifty pounds, to be recovered by an action of the present wardens, on motion to the court of their county, first giving said delinquent wardens ten days notice of their intention to make such motion.

CHAP. 498.

An act to compel the owners of slaves to provide proper maintenance for such of their slaves as may be rendered incapable of service by reason of advancement in years or otherwise.

Whereas it is represented to this General Assembly that slaves rendered incapable of serving their owners from advancement in years and other disability, are often neglected by such owners, and by them permitted to go at large and become a common nuisance:

1. *Be it therefore enacted, &c.* That the owner of every slave who shall be rendered incapable of service from advancement in years or other disability, shall provide and furnish such slave with the usual allowance of food, raiment and lodging furnished to slaves in the neighbourhood where such slave may be; and if any such slave shall be unprovided for by his or her owner as aforesaid, it shall and may be lawful for the wardens of the poor of the county where such slave may be, (if the owner of such slaves lives in such county) and they are hereby required to furnish such slave with the food, raiment and lodging aforesaid, and make a charge of the same to the owner of such slave; which sum so expended the said wardens shall and may recover by warrant against such owner before any justice of the peace, if the sum so expended exceeds not the sum cognizable before a justice by law; if so, then before any jurisdiction having cognizance of the same. *Provided always*, That the said wardens shall not at the expense of the

Wardens of the poor to provide for slaves rendered incapable of service, in case of neglect of the owners.

owner provide such slave as aforesaid, until they or one of them shall first have given the owner of such slave notice to provide for and furnish such slave as is herein required, which notice shall be served upon such owner ten days previous to the wardens' providing for such slave, and shall and may be issued by any one of said wardens, upon information being given to him, and by him directed to the sheriff or any constable of the county, who are hereby required forthwith to execute the same, and make return of the same to the warden who issued such notice, or to any one of them.

Executors, &c.
to provide, &c.

2. *And be it further enacted,* That if the owner of any such slave shall be dead, the executors or administrators of such deceased owner, shall provide for such slave in manner aforesaid, out of the estate of such deceased owner, and upon failure so to do the wardens aforesaid shall provide for such slave as aforesaid, and proceed against such executors or administrators in every respect as herein directed against the owner; or if any such slave shall be liable to the direction of any guardian, such guardian shall make the provision aforesaid for such slave out of the estate of his ward; and upon failure, the wardens aforesaid shall provide for such slave as aforesaid, and proceed against such guardian in manner aforesaid; and such executors, administrators and guardians shall be allowed the expense of making such provision for such slave in their settlements.

To remove slave
to the owner,
&c.

3. *And be it further enacted,* That when any such slave shall be in a county other than the county where the owner of such slave, or the executors or administrators of a deceased owner, or guardian reside, the wardens aforesaid may remove such slave to the owner, or to the executors or administrators of a deceased owner, or to any guardian, at the expense of such owner, and at the expense of the executors, administrators and guardians in such cases.

Two wardens
shall have pow-
er, &c.

4. *And be it further enacted,* That any two of the wardens of the poor, shall have power and authority to carry the foregoing provisions into effect.

CHAP. 499.

An act to suspend certain parts of the acts of the General Assembly, passed in the years 1783 and 1784, relative to the office of Martin Armstrong, kept in Nashville, and to direct and limit the manner of issuing grants on military land warrants, and warrants issued from the late office of John Armstrong; and to appoint a Board of Commissioners for the further examination of frauds committed in the Secretary's office. (See 1797, c. 489.)

1. *Be it enacted, &c.* That so much of an act of the General Assembly, passed in the year one thousand seven hundred and eighty-three, entitled "An act to amend an act for the relief of the officers and soldiers of the continental line, and for other purposes," as doth or may relate to the appointment of colonel Martin Armstrong as surveyor of the lands allotted and reserved for the officers and soldiers of the continental line of this state, under the said act, passed the thirteenth day of April, one thousand seven hundred and eighty-two, be and the same is hereby suspended as to all operation thereon, until the next session of the General Assembly. Part of an act suspended.

2. *And be it further enacted,* That so much of an act passed in the year one thousand seven hundred and eighty-four, entitled "An act to amend an act, entitled An act for the relief of the officers and soldiers of the continental line, and for other purposes," as relates to the office of Col. Martin Armstrong being kept in the town of Nashville, in the county of Davidson; and so much of said act as is contained in the first and second sections thereof, be and the same is hereby suspended until the end of the next session of the General Assembly. Part of an act suspended.

3. *And be it further enacted,* That three commissioners be appointed by joint ballot of both houses of the General Assembly, and the said commissioners when so appointed shall form a board, and shall meet in the city of Raleigh on the first day of March, and shall continue to sit ninety days if the nature of the business shall in their judgment require the same, and the said commissioners may adjourn from time to time as they shall think proper, until they sit the full time of ninety days as aforesaid, if the business should require it. Commissioners to form a board, &c.

4. *And be it further enacted,* That the board when so commenced, shall proceed further to investigate the How to proceed, &c.

frauds suggested to have been committed in the secretary's office in obtaining land warrants for military services, and in obtaining warrants from the office lately kept by John Armstrong, and in obtaining grants on warrants in either of the above cases; and on such examination and discovery of any frauds committed, to report the special fact, with the name of the person or persons concerned, to the governor for the time being, who is directed to lay the same before the attorney or solicitor-general of the state, whose duty it shall be to take the necessary orders thereon, for the purpose of bringing to justice such persons as may have been guilty of any of the above frauds suggested to have been committed.

Secretary's
duty.

5. *And be it further enacted*, That it shall be the duty of the secretary to lay before the commissioners an accurate list of all grants issued on military land warrants, and on entries made in the office lately kept by John Armstrong, reciting in said list the number of the warrant or entry, and the name of the grantee; for which labour and expense the secretary shall be allowed by the next General Assembly.

Not to issue
grants, &c.

6. *And be it further enacted*, That the secretary be and he is hereby directed not to issue any grant or grants upon any warrant obtained from entries made in the office of the late John Armstrong, or upon any military warrant, which in either case may be deemed fraudulent by the said commissioners, or when in the opinion of the said commissioners any proceedings relative to the obtaining the said warrants or in making the survey have been illegal.

Grants how to
be issued, &c.

7. *And be it further enacted*, That no grant shall be made or issued on any of the said warrants or entries until the board of commissioners shall meet, nor then upon any but such as shall appear to the said commissioners to have been legally obtained, and properly surveyed and returned agreeably to law.

Warrants not to
be issued.

8. *And be it further enacted*, That no warrant shall be issued by the secretary until the General Assembly shall make provision for that purpose.

CHAP. 500.

An act to authorise the surrender of certain lands in the county of Wilkes, and other purposes therein mentioned.

Whereas it appears to this General Assembly that Hilliar Rousseau & Company, have signified their wish to surrender a quantity of land in the county of Wilkes, which land the said Company have entered and have not obtained grants for the same;

1. *Be it therefore enacted, &c.* That whenever the said Hilliar Rousseau & Company, shall by themselves or their agents surrender to the state of North-Carolina, six hundred thousand acres of land in the county of Wilkes, and have the same recorded in the secretary's office, then the entry-taker of the county of Wilkes and his securities, shall be exonerated from the payment of the purchase money due to the treasury in consequence of such entries being so made. Entry-taker exonerated when the lands are surrendered to the state.

2. *Be it further enacted,* That any entry which hath been made on the land so surrendered, or which shall be hereafter made before the first day of April next, on the land aforesaid, shall be void. *Provided,* That this act shall not affect any such entries upon which grants have issued, or for which the purchase money has been already paid into the treasury. Entries made void, &c.

3. *Be it further enacted,* That it shall be the duty of the entry-taker of the county of Wilkes, on the second day of April next, to open his office for the land so surrendered, for the reception of entries to be made on said lands; and after opening the office as aforesaid, any person wishing to enter the land aforesaid, shall produce to the entry-taker aforesaid, a certificate setting forth his location of such entry; and where two or more persons shall locate the same piece of land, and offer their locations to the entry-taker at the same time, then the said claimants shall cast lots, and the person who shall have the choice shall make the first entry. Duty of entry-taker of Wilkes.

4. *And be it further enacted,* That nothing in this act shall exonerate the claimants who may enter the land aforesaid, from paying the purchase money into the public treasury agreeably to law. Claimants entering said lands not to be exonerated.

CHAP. 501.

An act for regulating ordinaries, houses of entertainment, and retailers of spirituous liquors by the small measure.

Retailers to sell by sealed measures.
(See 1741, c. 32.)

Court to grant license.

(See 1816, c. 906—1818, c. 984.)

Applicant to give bond.

Form of the bond.

1. *Be it enacted, &c.* That all persons hereafter retailing liquors, shall sell the same by sealed measures, or such other measures as shall at least contain the full quantity pretended to be sold.

2. *And be it further enacted,* That any person by applying to the court of the county in which such person dwells, and praying a license to keep an ordinary, may at the discretion of such court be ordered to have a license for the purpose aforesaid, unless it shall appear to the said court that the person so applying is a person of gross immorality, or of such poor circumstances and slender credit, that they think him or her not able to comply with the intention of this act. And on granting such license, the person who applies for the same shall produce one or more securities to the said court to be by them approved, who shall before the license be made out, join with him or her in a bond of the following tenor, to wit :

Know all men by these presents, that we A. B. and C. D. are held and firmly bound to _____, governor of the state of North-Carolina, in the sum of one hundred pounds current money of the state, to be paid to the said _____, or his successors in office ; to which payment well and truly to be made, we bind ourselves and every of us, our and every of our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals and dated the _____ day of _____.

The condition of the above obligation is such, that whereas the above bounden A. B. hath obtained a license to keep an ordinary at _____ ; if therefore the said A. B. doth constantly find and provide in his or her said ordinary, good and wholesome diet and lodging for travellers, and stable, fodder, corn and pasturage for their horses, for and during the term of one year from the day of _____, then this obligation to be void, otherwise to remain in full force ; and in case of breach of or not complying with the condition of the said bond, it shall and may be lawful for any person in the name

of the governor, to sue for and recover the penalty of the said bond, and apply one-half thereof to his or her own use, and the other half to the use of the state.

3. *And be it further enacted,* That when such bond shall have been given, the clerk of the court shall prepare a license and sign the same, which license shall continue in force one year and no longer; and the said clerk shall receive the sum of eight shillings for his own use in full for his fees, and furnishing a copy of the tavern rates; and every person obtaining such license shall pay to the sheriff of his or her county at the time of paying public taxes, a further sum of forty shillings, for the use of the state.

Continuance of the license.

Clerk's fees:

40s. to be paid to the state.

4. *And be it further enacted,* That if any ordinary keeper shall entertain servants or slaves against the will of their owners, or common sailors against the direction of the masters of vessels to which they belong, every ordinary keeper so offending shall and may by order of the justice before whom such offence shall be proved, be from thenceforth suspended and disabled from keeping an ordinary, as if he or she had never obtained a license for that purpose, and shall be further subject to a fine of five pounds to the use of the party suing for the same, to be recovered before any justice of the peace, subject nevertheless to an appeal to court, as in cases of other warrants, by either party who may think themselves aggrieved by the determination of such justice.

Penalty for entertaining slaves or sailors.

5. *And be it further enacted,* That the justices of each county shall once a year or oftener if necessary, at the first court to be held after the first day of January, in each year, rate the prices of liquor, diet, lodging, fodder, corn, provender and pasturage to be taken by ordinary keepers in their respective counties; and every ordinary keeper shall within thirty days after such rates are settled, cause the same to be set up in the common entertaining room of such ordinary, and there kept until the rates are again altered; and on failing so to do, shall forfeit and pay the sum of twenty pounds to the use of the county wherein such offence may happen, to be recovered before any justice of the peace of the said county, subject nevertheless to an appeal as in other warrants.

Justices to rate the price of liquors, &c.

Duty of ordinary keepers, &c.

Not to sell on
credit for more
than 5l.

6. *And be it further enacted*, That no ordinary keeper shall sell or credit liquors to any person to a greater amount than five pounds, unless the person so credited sign a book or note in the presence of one or more witnesses in acknowledgment of the said debt, under the penalty of losing the money so credited; and in any action brought for recovery of such debt, the general issue may be pleaded and this act given in evidence. *Provided nevertheless*, That nothing in this act contained shall be construed, deemed or taken to prohibit or restrain any person to sell by retail, brandy or other distilled spirits, the production of his own farm, by the quart or a greater quantity.

Penalty on sell-
ing to slaves,
&c.

7. *And be it further enacted*, That any person obtaining liberty to retail spirituous liquors as aforesaid, and shall sell to slaves without a permit from his or her owner, or shall keep a disorderly house, he or she so offending, on conviction thereof before any justice of the peace, shall forfeit and pay the sum of five pounds for each and every offence, to be recovered before a justice of the peace, one-half to the use of the person suing for the same, and the other half to the use of the county where such offence was committed.

Penalty on sell-
ing without li-
cense, &c.

8. *And be it further enacted*, That any person undertaking to sell spirituous liquors by the small measure, or by any other ways or means where the quantity is less than a quart, and receive pay for the same, not having a license or listed himself as aforesaid, shall on conviction thereof forfeit and pay forty-eight shillings for the use of the state, to be recovered before a justice of the peace, and be further liable to presentment or indictment for the same offence.

Repealing
clause.

9. *And be it further enacted*, That all acts and parts of acts coming within the purview of this act, be repealed and made void.

CHAP. 502.

(a See 1799, c. An act for the prevention of vice and immorality, by suppressing ex-
526—1801, c. cessive gaming.(a)
581.)

Whereas the practice of gaming is productive of idleness, dissipation and depravity of morals :

1. *Be it enacted, &c.* That all monies exhibited for the purpose of alluring persons to bet against at any game, and all monies actually staked or betted whatsoever, and all species of other property, shall be liable to be seized by any justice or justices of the peace, or by any other person or persons under a warrant from a justice of the peace, wheresoever the same may be found; and all such monies so seized shall be accounted for and paid by the person or persons making the seizure, to the wardens of the poor of the county wherein the seizure shall be made, and applied by the said wardens in aid of the poor tax, deducting thereout fifty per centum upon all monies so seized, to be paid to the person or persons making the said seizure.

Monies staked,
liable to be
seized, &c.

2. *And be it further enacted,* That all gaming tables of what name or denomination they shall be called, are hereby totally forbidden to be used in this state by any person or persons whatsoever. And all justices of the peace, commissioners of police, sheriffs or constables, are hereby authorised and directed, in case of information made to them, to seize and destroy the same by every mean in their power.

Gaming tables
forbidden, &c.

3. *And be it further enacted,* That any person whatsoever who shall suffer the game of billiards, or any of the games played at the tables commonly called A B C, E O, or faro-bank, or any other gaming table or bank of the same or like kind, under any denomination whatever, to be played in his or her house, or in a house of which he or she hath at the time the use or possession, shall for every such offence forfeit and pay the sum of one hundred pounds, to be recovered in any court of record by any person suing for the same. (a)

Penalty on suf-
fering them to
be used, &c.

(a Duty of she-
riffs to sue—see
1800, c. 552.)

4. *And be it further enacted,* That any person who shall oppose the destruction of any of said tables, or the seizure of any such monies as above described, by any person or persons so authorised to make it, shall be liable to a penalty of five hundred pounds, to be recovered in any court of record, for the use of the state, and shall be further liable to the action of any party grieved by such opposition; and any person or persons who shall take or carry away any part of the said money, after the said seizure shall be declared, shall be guilty of a misdemeanor, and liable to be indicted or presented therefor, and on conviction fined at the discretion of the court trying the same.

Penalty on op-
posing their
destruction, &c.

This act to be given in charge to the grand jury.

When writs issue on penal statutes, sheriffs &c. to take bond, &c.

Provisoos.

(a Sec 1810, c. 796, prohibiting horse-racing.)

5. *And be it further enacted*, That it shall be the duty of the judges of the superior courts and justices of the county courts, to give this act in charge to the grand jury, at the time when such grand jury shall be sworn.

6. *And be it further enacted*, That where any writ shall issue from any court whereby any sheriff or other officer shall be commanded to take the body of any person or persons, to answer to any suit brought for recovery of any forfeiture or forfeitures arising under any penal statute of this state, such sheriff or officer shall take bond with two sufficient securities, in double the sum for which such person or persons shall be held in arrest, and shall return such bond with the writ; and in case any sheriff shall fail or neglect to take such bail, or the bail be insufficient on exception taken and entered the same term to which such process shall be returnable, the sheriff or other officer having notice thereof, he shall be deemed and stand as special bail: And the said bail bond shall be endorsed by said officer in the mode prescribed by law for assignment of bail bonds: And the said bail shall be subject to the same rules, and liable in the same manner as bail taken in civil cases, any law, usage or custom to the contrary notwithstanding. *Provided nevertheless*, That this act as it may respect billiard tables, shall not have effect until the first day of April next. *And provided also*, That this act shall not extend to or preclude horse-racing.(a)

CHAP. 503.

An act requiring the secretary of state to enter into bond for the faithful performance of his duty.

Governor to receive bond from the secretary.

1. *Be it enacted, &c.* That the governor for the time being, be and he is hereby required within one month after the ratification of this act, to demand and receive from the present secretary of state, a bond and sufficient security in the sum of ten thousand pounds current money of the state; which bond shall be taken in the name of, and payable to the governor for the time being, and his successors in office; which bond shall be as follows, to wit:

Know all men by these presents, that we A. B. C. Form of the bond.
and D. are held and firmly bound unto _____, governor
of the state of North-Carolina, and his successors in
office, in the sum of _____ current money of the state;
to which payment well and truly to be made, we bind
ourselves, our heirs, executors and administrators,
jointly and severally, firmly by these presents. Sealed
with our seals, and dated the _____ day of _____.

The condition of the above obligation is such, that
whereas the above bounden A. is constituted and ap-
pointed secretary of state for the state of North-Carolina;
if therefore the said A. shall well and truly execute
and discharge the duty of secretary of state in all
cases agreeably to law, then the above obligation to be
void, otherwise to remain in full force and effect.

2. *And be it further enacted,* That the said bond when
executed agreeably to the intention of this act, shall be
deposited in the treasurer's office for the safe-keeping
thereof. To be deposited in the treasurer's office.

3. *And be it further enacted,* That it shall be the duty
of each and every secretary of state hereafter to be ap-
pointed, before he enters on the duty of his office, to
enter into bond as aforesaid, to take the oaths required
by government, and also the oath of office, to wit: I,
A. do solemnly swear that I will in all cases faithfully
and honestly execute the office of secretary of state for
the state of North-Carolina, during my continuing in
office, according to law. So help me God. Duty of secretary before entering on the duties of office.

4. *And be it further enacted,* That any person injured
or aggrieved by the secretary of state in virtue of his
office, may bring suit on the said bond without any as-
signment thereon by the governor, in any court of re-
cord within this state. Persons injured may bring suit.

CHAP. 504.

An act to amend an act passed in the year one thousand seven hundred and ninety, entitled "An act empowering the county courts of pleas and quarter sessions to direct the secretary of state to correct certain patents or grants therein described, when there shall have been error in the surveyor in making returns, or in the secretary in issuing the same." (a)

(a See 1790, c. 326.)

Whereas many inconveniences are found to arise
from so large a number as a majority of the acting jus-

Justices of a county being required to be present at the trial of petitions originating under the before recited act, and the greatest injustice frequently done the petitioners from their being obliged in all cases to pay the costs, though there may be opposition; For remedy whereof,

Seven, or a majority of acting justices to constitute a quorum.

1. *Be it enacted, &c.* That from and after the ratification of this act, seven, or a majority of the acting justices of the peace in any county of this state, who shall not be connected with the contending parties either by affinity or consanguinity, shall be considered a sufficient number to constitute a quorum, to hear and determine on all petitions authorised by the before recited act.

Courts to take cognizance of titles, &c. and correct error. (a See 1804, c. 655.)

2. And whereas the act before referred to doth not provide that titles, deeds and other instruments made and executed for the conveyance of lands by the late lords proprietors of North-Carolina, or their proper agents, or by Henry E. M'Culloch, Arthur Dobbs, Murry & Company, or their agents, shall be amended when error may have happened: For remedy whereof,

Be it enacted, That from and after the passing of this act, it shall and may be lawful for the several county courts within this state, on the representation of the original (a) grantees, or their legal representatives or assigns, to take full and complete cognizance of all such titles, deeds or other conveyances for lands lying within their respective counties, made and executed by any of the aforesaid persons; and if it appeareth to them that error hath been committed either by the surveyor in platting said lands, or by the grantor in executing said titles, they shall be empowered through their chairman to correct said error or mistake; which said amendment when made by the chairman, shall be considered good and valid, and attested and countersigned by the clerk of the court, and a full and complete copy thereof entered on the records and ordered to be registered. *Provided always,* That the requisites incumbent on the petitioner, as set forth in the before recited act, previous to hearing of his petition, shall be strictly attended to as to all petitions originating under or by the authority of this act, except as to the number of justices necessary to hear the same.

Proviso.

Party failing to pay costs.

3. *And be it further enacted,* That in all determinations hereafter made on such petitions, where any person or persons may have made or shall make him or

themselves a party or parties to prevent the prayer of the petitioner or petitioners being granted, the party failing or cast shall be adjudged to pay all legal costs and charges, which are hereby declared to be the same as in all other civil suits originating in said county courts, where the boundaries of land do not come in question.

CHAP. 505.

An act to prevent suits from abating by the marriage of feme sole plaintiffs.

Whereas according to the principles of the common law as it now stands, suits brought by feme soles abate by marriage of the plaintiff, whereby they are often delayed and sometimes deprived of their just rights: For remedy whereof,

1. *Be it enacted, &c.* That no suit now pending, or which may hereafter be brought in any court of law or equity shall abate on account of the plaintiff's marriage; and it shall be lawful for the husband of any woman having a suit depending, to make himself a party thereto, on motion at the next or succeeding term after his marriage; and the suit shall afterwards be carried on as if he and his wife had been originally plaintiffs; any law, usage or custom to the contrary notwithstanding.

Suits not to
abate, &c.

2. *And be it further enacted,* That when application is made by any person who has married a feme sole plaintiff, to be plaintiff in the prosecution of any suit brought by his wife before marriage, it shall be the duty of the clerk of said court to take bond and security for the payment of the costs in like manner and form as is usual in other cases; and in case of failure to prosecute with effect, the said husband and his securities shall be held and deemed liable for the payment of costs, in the same manner as other plaintiffs who have failed to prosecute, and shall be subjected to the same writs of execution; and upon said bond being executed, the security originally given for the prosecution of the suit shall be discharged from any liability thereon.

Husband liable
for costs, &c.

CHAP. 506.

An act to amend the second section of an act passed at Fayetteville, in the year one thousand seven hundred and eighty-six, entitled,
 (a See 1786, c. 255, s. 2.) "An act to compel certain officers therein mentioned to publish the application of public monies and allowances for insolvents." (a)

Duty of clerks. 1. *Be it enacted, &c.* That from and after the passing of this act, it shall be the duty of the several clerks in this state, in their statement of taxable property required by the second section of the before recited act, to be posted up in their respective court-houses, to add to each person's taxable property the amount of the tax for which he, she or they may be liable; any law, usage or custom to the contrary notwithstanding.

CHAP. 507.

(See 1796, c. 459, and 1800, c. 554.) An act giving further time for the registering grants, proving deeds and mesne conveyances which have not been proved or registered within the time heretofore appointed by law.

Time allowed for registering grants, &c. 1. *Be it enacted, &c.* That all grants for lands which have not been registered within the time heretofore appointed by law, shall and may within two years after the passing of this act be admitted to registration, and shall be as good and valid as if they had been registered within the time heretofore allowed by law.

For proving and registering deeds, &c. 2. *And be it further enacted,* That all deeds and mesne conveyances of lands, tenements and hereditaments not already proved, acknowledged and registered, shall and may within two years after the passing of this act be acknowledged by the grantor or grantors, his or their agents or attornies, or be proved agreeably to the laws heretofore in force, or being so acknowledged or proved be delivered to the registers of the counties where such lands, tenements or hereditaments are respectively situated; and all deeds and mesne conveyances whatsoever, which shall be acknowledged, or proved and registered according to the direction of this act, shall be good and valid, and take effect as fully to the use and benefit of the grantees, their heirs or assigns respectively, as if such deeds and mesne conveyances had been acknowledged, proved and registered agreeably to the directions of any laws heretofore made.

CHAP. 508.

An act to amend an act, entitled, "An act to empower the several county courts of pleas and quarter-sessions of the several counties in this state, to order the laying out public roads, and to establish and settle ferries, and to appoint where bridges shall be built, and to clear inland rivers and creeks."

Whereas by the before recited act power is vested in the county courts to erect public roads, ferries, bridges, &c. and whereas it frequently happens that persons settle in remote places, where there is no public road leading to, and no way to get to and from, other than by crossing other persons' lands, and it is not necessary to establish a public road, by which means some persons have it in their power to prevent others from having a cart-way to and from their own lands :

1. *Be it enacted, &c.* That from and after the passing of this act, on the petition of any person or persons to the county court for a cart or waggon way to be kept open across another person's land, unless such petitioner shall make it appear to the satisfaction of the court that the adverse party has had twenty days notice of such his intention, it shall be the duty of such court to cause such petition to be filed in the clerk's office until the next succeeding court ; at which court the justices present shall hear the allegations set forth by the petitioner, and if sufficient reason be shewn, it shall be the duty of such court to pass an order directing the sheriff to summon a jury of twelve freeholders to go on the premises and view the same, and lay off a cart-way not less than fourteen feet wide, and assess the damages the owner of such land may sustain thereby ; and such damages with the expense of making the road, shall be paid by the petitioner, and shall be kept open for the free passage of persons on horse-back, carts and waggons. *Provided nevertheless,* That any person across whose land such cart-way may pass, shall at the discretion of such proprietor be at liberty to erect gates or bars across the same.

Court to order
the laying off
cart-ways, &c.

Proviso.

2. *And be it further enacted,* That any person that shall leave open, break down, or otherwise destroy any gate or bars that may be erected across any cart-way laid off as aforesaid, shall on conviction thereof forfeit and pay twenty shillings for such offence, for the use of the person suing for the same, to be recovered before

Penalty for
destroying, &c.
gates or bars.

any justice of the peace for the county where the offence may be committed.

Cart-ways to be free, &c.

3. *And be it further enacted*, That when any cart-way laid off as aforesaid for and at the request of a petitioner or petitioners for the use as aforesaid, shall be free for the passage of any person or persons to pass. *Provided*, That this act shall not be construed so as to exempt any such petitioner or petitioners from working on the public roads to which the court may have directed.

CHAP. 509.

(See 1811, c. 823.)

An act directing the duty of sheriffs in certain cases, as far as respects the collection of the county and poor tax.

Whereas it is represented to this General Assembly, that at present there is no law to compel the sheriffs or any other person to give bond and sufficient security for the collection of the taxes aforesaid; for the want of which, the county and poor are deprived of the relief which they should have;

Sheriffs to enter into bond for collection of county and poor tax.

1. *Be it therefore enacted, &c.* That from and after the passing of this act, it shall be the duty of each and every sheriff within this state, who may hereafter be appointed, to enter into bond with sufficient security, payable to the chairman of the court of which he may be appointed for the time being, and his successors in office, for the due collection and accounting for the county and poor tax, as well as the public tax; which said bonds shall be executed previous to their entering on the execution of their office.

Their duty and commissions.

2. *And be it further enacted*, That the sheriffs aforesaid shall be entitled to the same commissions, subject to the same rules, regulations and restrictions in respect to their settlement of the county and poor tax with the county treasurer and county wardens, as they are in their settlements of the public tax with the treasurer of this state; and shall return a list upon oath, of all monies by them received on property not contained within the clerk's lists, and account for the same; any law to the contrary notwithstanding.

CHAP. 510.

An act to amend an act, entitled "Feme covert's how to pass lands." (a)

(a See 1751, c. 50, 1810, c. 791, 1816, c. 927.)

Whereas doubts are entertained whether under the before recited act, or any other existing law of this state, feme covert's residing without this state, have any right to make a power of attorney to any person to convey for her the right, title and interest which such feme covert may have in lands, tenements and hereditaments within this state;

1. *Be it therefore enacted, &c.* That all conveyances which may hereafter be made by any person under a power of attorney from any feme covert residing without the state, by her freely executed jointly with her husband, shall be held good and valid to all intents and purposes to pass the estate and title which such feme covert may have in such lands, tenements and hereditaments within this state, as are mentioned or included within such power of attorney, whether in fee simple, right of dower, or otherwise. *Provided nevertheless,* That every such power of attorney shall be separately acknowledged by the feme covert executing the same, and duly proved as by the laws now existing, deeds of conveyance by feme covert's are required to be acknowledged and proved.

Attornies of feme covert's to convey lands.
Provisd.

CHAP. 511.

An act more fully to ascertain the duties of the public printer. (a)

(a See 1793, c. 388, 1810, c. 795.)

1. *Be it enacted, &c.* That from and after the first day of June next, the public printer shall on or before the first day of each session of Assembly, have at Raleigh, a printing press and apparatus in readiness to perform the duties heretofore enjoined by law, and such other printing business as the General Assembly shall from time to time require; and such printing press and apparatus in readiness as aforesaid, and for the purposes aforesaid, there shall remain during the sitting of the Assembly, and after until the printing contemplated by law for the use of the members of Assembly; and until the printing of the laws and journals shall be completed. And it shall be the duty of the secretary of

Public printing to be done at Raleigh.

Secretary of state and clerks' duty.

state to deliver to such public printer, complete copies of all the laws; and of the clerks of each house to deliver to such public printer complete copies of the journals of each house, within twenty days after the rise of each General Assembly.

Public acts furnished daily.

2. *And be it further enacted*, That it shall be the further duty of the public printer to furnish each member of the General Assembly with a copy daily of such public acts as may pass during the sitting of each General Assembly.

Laws and journals to be printed in 90 days.

3. *And be it further enacted*, That the public printer shall within ninety days after the rise of each session of the General Assembly, have all the laws and journals of said session printed and ready to be delivered as heretofore made his duty by law.

CHAP. 512.

An act to amend the act establishing an university in this state.

Whereas the trustees of the university of North-Carolina, have prayed this General Assembly to amend their act of incorporation, so as to dispense with the presence of the treasurer at their meetings, and to ensure a more punctual attendance of the trustees;

Presence of the treasurer of the board not necessary.

1. *Be it enacted, &c.* That at the meetings of the trustees of the said university, hereafter to be held, the presence of the treasurer of the board shall in no case be necessary to constitute a board for business.

CHAP. 513.

An act to empower the county courts to appoint sheriffs in certain cases.

In case of vacancy, courts to appoint a person to act as sheriff until the annual election.

(a Sheriff may resign—see 1808, c. 752.)

1. *Be it enacted, &c.* That whenever the office of sheriff in any county of this state shall become vacant(a) by the appointment and acceptance of any sheriff, of any office or appointment under the authority of the United States, that then and in such case, it shall and may be lawful for the court of such county, at the next succeeding term, to appoint a fit and proper person to hold and exercise said office for such county, until the next an-

mal election. *Provided*, That such election shall be held and conducted, and the officer so appointed be under the same rules, regulations and restrictions, and invested with the same powers, and entitled to the same privileges and emoluments, as sheriffs appointed in the common and accustomed mode.

CHAP. 514.

An act authorising the registration of powers of attorney, and directing the mode in which corporations may hereafter convey lands.

1. *Be it enacted, &c.* That when any power of attorney authorising the conveyance of lands, is or shall be acknowledged by the person who has executed the same, or proved by one or more witnesses on oath, before any judge of the superior court, or in any court of pleas and quarter-sessions of the county where the land lies, or the power was executed, such power of attorney so proved or acknowledged, may be registered by the public register of the county where the land lies, at any time within twelve months after the passing of this act, or the date of the said deed.

Powers of attorney for the conveyance of lands may be registered within twelve months.

2. And whereas persons residing in distant states frequently authorise persons to dispose of lands in this state, and it may be difficult to have the power of attorney proved or acknowledged as aforesaid; *Be it therefore enacted*, That any power of attorney to convey real estate, executed by any person residing out of this state, which is or may be proved or acknowledged before the chief justice or any judge of the courts of supreme jurisdiction in the state where such person resides, or in a county court thereof, and duly certified by the clerk of the court, or a notary or tabellion public, shall upon being exhibited to the court of pleas and quarter-sessions of the county where such land lies, or one of the judges of the superior court, be ordered to be registered, and shall be registered in the same manner as if such power had been proved or acknowledged in open court of the county where the land lies.

Court to order the registration of powers of attorney, on probate in another state.

3. And whereas monies are frequently paid and accounts settled with the attorneys in fact of persons residing in other states and beyond sea, and no means have been provided to preserve the evidence of the power

All powers of attorney to be recorded and registered, when proved in court

or out of the
state.

of attorney under which such agents act ; *Be it therefore enacted*, That every power of attorney, the execution of which is or shall be duly certified under the seal of the notary or tabellion public, or the seal of any mayor or presiding magistrate of any city, or clerk of a court, or duly proved in open court by the oath of a subscribing witness, such power of attorney so certified and attested, upon being exhibited to any of the judges of the superior courts, or in any court of pleas and quarter-sessions, shall be recorded ; and thereupon the register shall register the same ; and the clerk for making such order and record, and the register for such registration, shall receive the same fees as the law has allowed in like cases.

Corporations
how to convey
lands.

4. And whereas difficulties have arisen respecting the manner in which corporations convey lands ; *Be it further enacted*, That from and after the passing of this act, it shall and may be lawful for any corporation to convey lands by deed of bargain and sale, sealed with the common seal of said corporation, and signed by the president or presiding member, or trustee of said corporation and two members, or trustees thereof, in the presence of two witnesses ; and such deed when proved in the usual form prescribed for other conveyances for lands, shall be registered in the register's office of the county where the land lies, in like manner. *Provided nevertheless*, That nothing in this act contained, shall extend or be construed to extend to the admission of any power of attorney to registry which is signed or executed by a feme covert, unless she has acknowledged in the manner required by law for her passing lands, separately and apart from her husband ; that she signed the said power freely, voluntarily, and without fear or the compulsion of her said husband or any other person whatever.

Their deeds to
be registered.

Proviso as to
feme coverts
in executing a
power.

CHAP. 515.

An act to ascertain the pilotage over Old-Topsail inlet, and to amend an act, entitled, "An act to ascertain the pilotage which shall be allowed the pilots at Occacock inlet, and the several sounds and inlets to which vessels go, which come in over said inlet."

Pilot's fees for
bringing vessels

1. *Be it enacted, &c.* That from and after the passing of this act, all pilots legally authorised to take charge

of vessels to bring in over Old-Topsail inlet, shall be entitled to demand and receive from the commander of such vessel as they may have had charge of, the same sum for the pilotage of such vessel from the outside of the inlet and into Bogue Road or Shackelford's Road, at the option of the commander, as is established by a law passed in the year one thousand seven hundred and ninety-four, for the pilotage of vessels of a similar size from the outside of Occacock bar into Beacon Island road or Wallace's channel.

2. *And be it further enacted*, That in future the following pilotage shall be allowed and paid the pilots authorised to take charge of vessels to bring over Occacock bar and into Wallace's channel or Beacon Island road, at the option of the commander, viz: For any vessel drawing less than eight feet water, five silver dollars; and for all vessels drawing eight feet water and less than ten feet, six-eighths of a dollar per foot; and for all vessels drawing ten feet water and upwards, one silver dollar per foot, for bringing such vessel from the outside of said bar, and up into Wallace's channel or Beacon Island road, at the option of the commander of such vessel; and the same pilotage out as in: and that in all other respects the pilotage shall remain the same as it is established by the above recited act, passed in the year one thousand seven hundred and ninety-four, hereby repealing only so much thereof as comes within the purview and meaning of this act.

in over Old Top-sail.

For bringing vessels in and carrying them out over Occacock.

CHAP. 516.

An act to prevent the obstruction of the navigation of Currituck inlet.

1. *Be it enacted, &c.* That from and after the ratification of this act, it shall not be lawful for any vessel or vessels passing in or out of said inlet, to cast or throw overboard any kind of ballast whatsoever, into the channels of said inlet, from the entrance thereof to Powell's point, or to Merchant's landing on the north west river; but that all and every vessel or vessels which shall pass or intend to pass through either of the said channels, having ballast on board, and which it shall become necessary to discharge, shall be compelled

Where vessels are to land their ballast.

to land the same either on Bett's marsh, Avery's marsh, the Narrows marsh, or at some convenient place on land above high water mark.

2. *And be it further enacted*, That every master, shipper or owner of any vessel or vessels, who shall hereafter cast overboard or discharge out of his or their said vessel, any kind of ballast whatsoever, into either of the said channels leading from said inlet to Powel's point or Merchant's landing aforesaid, or shall land the same at any place within the limits of the said channels, except at land above high water mark, or on the marshes aforesaid, shall forfeit and pay for each and every offence the sum of ten pounds current money, to be recovered before any justice of the peace for the county of Currituck, one-half to the use of the person who shall prosecute for the same, and the other half to the use of the state; and in case the said master, shipper or owner shall neglect or refuse, or prove insufficient to pay the said forfeiture, the said vessel, tackle and apparel shall be liable for the same; any law, usage or custom to the contrary thereof in any wise notwithstanding; subject nevertheless to the appeal of either party who may pray the same, as in other like cases provided by law.

Penalty for casting ballast into the channels, &c.

Vessel liable.

Fines how accounted for.

3. *And be it further enacted*, That it shall be the duty of the justice before whom such person shall be convicted, to receive of the sheriff or constable who shall levy the same, that part of such forfeiture as shall be coming to the state, and pay the same into the hands of the clerk of the county court of said county, and take his receipt for the same; who shall account therefor in the same manner as for other public money which shall come into his hands by virtue of his office.

CHAP. 517.

(a See 1797, c. 488.) An act to authorise such of the county courts in this state to elect treasurers of public buildings, as have not appointed the said officer at the term pointed out by law.(a)

Treasurers of public buildings to be appointed.

1. *Be it enacted, &c.* That where any county court in this state has failed to appoint a treasurer of public buildings at the time directed by an act passed at the last session of the General Assembly, it shall and may be lawful for the said court to proceed to elect some

suitable person to act as treasurer of public buildings, at any term after the ratification of this act, and before the term directed by the above mentioned law, who shall hold his office till the term pointed out by law for the annual election of said officer, shall enter into bond in the same manner, be entitled to the same compensation for his services, possess the same powers, and be subject to the same rules, regulations, penalties and restrictions as the treasurers of public buildings heretofore appointed.

2. *And be it further enacted*, That whenever said office shall become vacant by the death, removal, resignation or disqualification of any treasurer of public buildings, the several county courts are hereby directed to make an appointment to fill such vacancy till the annual term of appointment. *Provided*, That no election authorised by this act shall take place unless a majority of the acting justices of such county be present at said election.

Occasional vacancies to be filled.

A majority of justices to be present.

CHAP. 518.

An act to add part of the county of Craven to Lenoir.

Be it enacted, &c. That that part of the county of Craven lying within the following boundaries, be annexed to the county of Lenoir, to wit: Beginning on the river Neuse where the dividing line of the two counties crosses the same; thence running down the various courses of the river to the mouth of Stoneyton Creek; thence up the various courses of Stoneyton Creek to where the dividing line between the two counties crosses the same; thence along the same to the beginning on the river Neuse: and that the above described part of the county of Craven be hereafter a part of the county of Lenoir.

Part of Craven county added to Lenoir.

Read three times and ratified in General Assembly, }
the 24th day of December, Anno Dom. 1798. }

B. SMITH, S. S.

M. MATTHEWS, S. H. C.

Copy.—WILL. WHITE, Secretary.

Benjamin Williams, Esq. governor.

At a General Assembly begun and held at Raleigh, on the eighteenth day of November, in the year of our Lord one thousand seven hundred and ninety-nine, and in the twenty-fourth year of the independence of the said state: Being the first session of the said Assembly.

CHAP. 519.

(Sec 1801, c. 568, 1802, c. 610.)

An act to ascertain the amount of the certificate debt of this state.

Whereas it is necessary to ascertain the amount of the certificate debt of this state, to the end that provision may be made for discharging the same:

Certificates to be presented to the treasurer, who shall register the same, &c.

1. *Be it therefore enacted, &c.* That all persons holding certificates of the debt of this state, shall on or before the first day of December, one thousand eight hundred, present the same at the office of the treasurer; whose duty it shall be to register the number, date and amount thereof, together with the name of the persons to whom the same shall be made payable, in a book to be by him provided for that purpose; and the treasurer shall note on the said certificate that the same has been presented and registered as by this act required.

Certificates not presented, to be barred.

2. *And be it further enacted,* That all certificates of the debt of this state, not presented to the treasurer for the purpose of registration as aforesaid, within the time limited by this act, shall forever thereafter be barred, and shall not be received in any payment to the state, nor in any office thereof.

Treasurer to advertise the requisites of this act.

3. *And be it further enacted,* That it shall be the duty of the treasurer to give public notice of the requisites of this act in the State Gazette, and at least three other newspapers within this state, within one month from the rise of this General Assembly, and continue the same at least three months.

This act not to give credit to certificates declared fraudulent, &c.

4. *Provided, and be it further enacted,* That this act or any part thereof shall not be construed or operate to give credit or currency to such certificates as have by any act of this state heretofore been declared fraudulent, or refused to be received at the treasury or other offices of this state.

CHAP. 520.

An act directing the judges of the superior courts to meet together (a) to settle questions of law or equity arising on the circuit, (a) and to provide for the trial of all persons concerned in certain frauds.

(a See 1801,
c. 576, 1804,
c. 660, 1805,
c. 674, 1806,
c. 693, 1808,
c. 742, 1810,
c. 785, 1811,
c. 808, 1812,
c. 829, 1813,
c. 851, 1818,
c. 962 & 963.)

Whereas great inconveniences have arisen, and much delay in the administration of justice has been occasioned, from the want of a speedy and uniform decision of all questions of law or equity arising on the circuit, either from difference of opinion in the judges, or from a desire of further consideration, or from a want of a competent number of judges as the law exists at present: to the end therefore that these inconveniences may be remedied, and that decisions shall be had on all suits and controversies at present depending or hereafter to depend in the superior courts of law and equity, with as much despatch and uniformity as possible:

1. *Be it therefore enacted, &c.* That from and after the passing of this act, the judges of the superior courts of law and equity within this state, shall meet and assemble together twice in each and every year, at the city of Raleigh, on the tenth days of June and December, (a) and if said days shall happen on Sunday the next succeeding days, for the purpose of determining all questions of law and equity arising and remaining undetermined upon the circuit.

Judges to meet twice a year at Raleigh, to determine questions of law, &c (a Altered to third Monday June and last Monday December by 1819, c. 1015.)

2. *And be it further enacted,* That the said judges, or any two of them, at the first meeting after the passing of this act, shall appoint a clerk of skill and probity, who shall give bond with sufficient security, payable to the governor for the time being, in the sum of five thousand pounds, conditioned for the faithful discharge of his duties in office, and for the safe-keeping of all records committed to his custody; which bond shall be lodged with the secretary of state. And the said clerk, when so appointed, shall hold his office during good behaviour, but before entering upon the execution of his office shall, before the said judges, or either of them, take an oath of the same tenor and effect as that prescribed for the clerks of the superior courts of law.

To appoint a clerk, who shall enter into bond, &c.

(See 1818, c. 963.)

3. *And be it further enacted,* That whenever any questions of law or equity hereafter shall arise upon the circuit before any of the judges of the superior courts, which the judge sitting may be unwilling to determine, and shall be desirous of further consideration

What questions of law and equity to be brought up, and manner of bringing up the same.

(a Extended by
1810, c. 785 s. 7,
& 1818, c. 963.)

thereon, and a conference with the other judges; or where any questions of law or equity have already arisen on the circuit, and have remained undecided by reason of a disagreement of the judges on the circuit, (a) in either case the clerk of the district, under the direction of the judge then sitting before whom such question or questions shall arise or come, shall make out a transcript of the proceedings in the case in which such question or questions shall arise, and deliver the same to the judge before or at the expiration of the term; or a case shall be made up by the counsel in the court and under the direction of the judge, or by the judge himself, as the nature of the case may require; and such transcript or case so made as aforesaid, the judge shall file at the meeting of the judges hereby appointed, with their clerk.

Judges to determine all questions, to sit ten days, and give their opinion in writing.

(b Altered by
1805, c. 674, s. 2, and 1818, c. 963.)

(c Altered by
1810, c. 785, s. 3, and 1818, c. 962, s. 4.)

Clerk to make a certificate of decision, and duty of the clerk of the superior court thereon.

4. *And be it further enacted*, That the judges at their said meeting, or any two of them, shall proceed to argue and determine all questions so as aforesaid brought before them, and shall sit for ten (b) days at each and every meeting unless the business shall be sooner finished; and each and every judge at their said meeting shall give their final opinion in every case in writing, to be filed with the clerk, and by him to be entered in a book kept for that purpose. (c)

5. *And be it further enacted*, That it shall be the duty of the clerk of the said meeting of the judges, immediately after the rise of each and every sitting, to make out a full and correct certificate of the decision of the judges, ready to be delivered to the person in whose favour the decision shall be, or to any person for him on application; or if application should not be made, to be by the said clerk transmitted to the clerk of the superior court of law and equity where the question had been depending and had arisen; and the clerk of the said superior court shall thereupon issue execution as may be proper in the case, for the debt or damages that may have been recovered, together with the costs in the court of his district, or otherwise proceed as the decision of the judges may demand.

And whereas the compensation proper to be made to the clerk hereby appointed, in entering suit, entering up the opinion of the judges, for certificate of decision, and other services, cannot be accurately foreseen and provided for; and the procuring despatch and uni-

formity in judicial decisions is an object of public magnitude, and should be with as little expense to the individual sufferer as possible :

6. *Be it therefore enacted*, That the said clerk shall receive a compensation for his services a sum to be estimated by two of the judges, according to the business performed, not exceeding fifty pounds per annum ; (a) on certificate of which from the judges, the treasurer shall be authorised to pay the same.

Compensation to the clerk.

(a Altered by 1808, c. 742, s. 4, and 1818, c. 963, s. 5.)

CHAP. 521.

An act to perfect the titles of the officers and soldiers of the continental line of this state, (b) and of claimants under entries made in the office of John Armstrong.

(b A board is appointed to grant military warrants—see 1819, c. 992.)

1. *Be it enacted, &c.* That no warrants for the military services of the officers and soldiers of the continental line of this state shall hereafter be issued, except where they appear on the muster roll not to have been issued ; but that all warrants which have already issued to such officers or soldiers, shall be held and deemed legal, where the name of such officer or soldier shall appear to have been registered on the muster rolls ; and grants shall accordingly issue thereon. *Provided nevertheless*, That where it appears from said muster roll, that such officer and soldier had served for so short a time as not to be entitled to so large a quantity of land as is expressed in the warrant, such warrant shall be considered as cancelled ; and the secretary shall endorse a memorandum to that effect on such warrant, and shall file the same ; and shall issue another warrant for such quantity of land as such officer or soldier is really entitled to receive, corresponding with the number and date of the warrant before issued ; and when a survey shall thereon be made, agreeably to the provisions of this act, a grant shall issue accordingly : any thing herein contained to the contrary notwithstanding.

Manner of issuing warrants for military services, &c.

(Obsolete.)

2. *And be it further enacted*, That in all cases where the soldier's right to such warrant has been assigned to any other person, the secretary shall not issue a grant to the assignee, unless evidence shall be produced to him of the fairness of such transfer from the original claimant. (c)

In case of assignment of soldier's right.
(c This section repealed by 1800, c. 556, s. 1.)

Grants not to be issued on certain warrants.

3. *And be it further enacted*, That when any warrant has issued in favour of such officer or soldier, whose name does not appear on the muster roll, no grant thereon shall be issued by the secretary, unless such warrants have by a special resolution of the General Assembly been already authorised, or shall by the report of Jesse Franklin, John M. Binford and Brittain Sanders, commissioners appointed in the year one thousand seven hundred and ninety-two, appear to be just.

What evidence to be admitted.

4. *And be it further enacted*, That no evidence shall be produced to the secretary (or if produced shall be by him admitted) but such as may have been given by persons in his estimation disinterested and worthy of credit.

No grant to issue where the warrant shall be deemed unfair.

5. *And be it further enacted*, That where the secretary shall deem any warrant heretofore issued unfair, whether the same has or has not been reported against by any of the boards of commissioners heretofore appointed for the investigation of frauds, no grant shall be issued thereon without application to the General Assembly.

And whereas by the second section of an act, entitled "An act for ceding to the United States of America certain western lands therein described," (a) it is provided, that if the bounds of the lands already prescribed for the officers and soldiers of the continental line of this state, shall not contain a sufficient quantity of lands fit for cultivation, to make good the several provisions established by law, that then the said officer or soldier who should fall short of his allotment or proportion, should be permitted to take such part of his quota as might be deficient, beyond the bounds of the lands so prescribed. And whereas some of the officers and soldiers may be deficient in the quota allotted to them, in consequence of the lands so laid off being before appropriated ;

Deficiency of quota how to be obtained.

6. *Be it therefore enacted*, That in such cases, such officer or soldier is entitled to receive such deficiency of his quota, in any part of the territory ceded by the before recited act.

M. Armstrong suspended, and a surveyor to be appointed. His duty, &c.

7. *And be it further enacted*, That Martin Armstrong, surveyor of the western lands, shall remain suspended from his said office, and that a person shall be appointed by joint ballot of both houses, surveyor, in the room and stead of the said Armstrong, with authority to appoint one or more deputy surveyors ; and that the said

person so elected shall hold his said office at Nashville, in the state of Tennessee, under the same rules, regulations and restrictions as have been already established by law. *Provided always*, That the book of entries which shall be kept by the said surveyor, shall be ruled in equal spaces, and no blank space shall in any manner be left, so as to give a preference to a subsequent entry; and whenever any warrant shall be removed, such removed warrant shall be in the said book described, preserving in the margin of said book the number it had formerly borne therein.

8. *And be it further enacted*, That the said surveyor shall also keep a field-book, separate and distinct from the said book of entries, in which he shall accurately record every survey, with the courses, distances, and natural bounds of the land, which shall be made in consequence of any entry: which said book shall be free for the inspection of any person whatever. And the said surveyor shall transmit to the office of the secretary of this state, once in every twelve months, a true and exact copy of all the proceedings recorded therein in that time.

To keep a field book, &c.

9. *And be it further enacted*, That the said surveyor, before he enters on the duties of his appointment, shall give bond, with at least three sufficient securities, in the sum of twenty thousand pounds, to the governor of this state, for the time being, and his successors in office, for the due and faithful performance of the duties of his office; which said bond shall be given either in the comptroller's office of this state, or to any one of the judges of the superior courts of law and equity in this state; in which case, the bond so given shall be forwarded to the comptroller. And he shall also at the same time and place take the following oath: "I do solemnly swear, that as surveyor of the military lands granted by the state of North-Carolina to the officers and soldiers of the continental line of this state, I will truly, honestly and faithfully perform the duties of my office as required by law."

Surveyor to give security.

His oath.

10. *And be it further enacted*, That if any fraudulent rasure or interlineation should appear on any entry in the books lately kept by Martin Armstrong, or in the transcript lately lodged by the commissioners in the office of the secretary of this state, shall be deemed sufficient to vacate and destroy the same. *Provided always*,

Fraudulent razures to vacate entries, &c.

That credible testimony relative to such fraudulent razures or interlineations may be taken and received by the secretary of this state, from persons in his estimation disinterested and worthy of credit, to the end of enabling the just proprietor to perfect his grant.

No grants to issue to M. Armstrong, &c. till settlement.

11. *And be it further enacted*, That no grants shall hereafter issue to Martin Armstrong, or any of his deputies, for their services as surveyors, until there shall have been a full and final settlement made of the accounts of the said Armstrong with this state.

Surveyor to take books, &c. of M. Armstrong's office into possession, &c.

12. *And be it further enacted*, That the surveyor hereby appointed, shall take into his possession and safe-keeping the books, records and other papers belonging to the late office of the said Martin Armstrong. *Provided always*, If the said Martin Armstrong shall refuse to deliver up to his successor in office, appointed by and under the authority of this act, the several books of his office, then and in such case, the copies thereof now lodged with the secretary of this state, or attested copies of the same, shall be held and deemed, to all intents and purposes, legal evidence of the transactions in the office of the said Martin Armstrong; any law, custom or usage to the contrary notwithstanding.

Certain entries by M. Armstrong, &c. declared void.

13. *And be it further enacted*, That all entries made by Martin Armstrong as surveyor, or for himself or for any other persons, and all surveys made by the said Armstrong or any of his deputies, for themselves or for any other person, since the twenty-fifth day of December, in the year one thousand seven hundred and ninety-seven, shall be, and the same are hereby declared to be null and void, and no grant shall issue thereon.

Grants to issue for returns on entries in J. Armstrong's office.

14. *And be it further enacted*, That on all returns made for entries in John Armstrong's office, grants shall issue to the original claimant or assignee; provided it shall appear to the secretary that the assignment is just, and that no grant hath heretofore issued.

Secretary to issue warrants for entries in said office.

15. *And be it further enacted*, That the secretary of the state shall issue warrants for entries made in the said office of John Armstrong, where it appears that no warrant hath heretofore been issued, and the requisites of the law hath been or shall be complied with. *Provided always*, That no duplicate warrant on such entries shall be hereafter issued on any pretence whatever.

S. Donnelson suspended, and

16. *And be it further enacted*, That Stockley Donnelson, surveyor of the eastern district, be, and he is hereby

suspended from his said office ; and that a surveyor be appointed by joint ballot of both houses in his room and stead ; and the said surveyor shall give bond in the like manner and for the like sum as the surveyor appointed by this act in the room of Martin Armstrong is required to give : and for his services shall not receive any grants for lands from the state, but shall be entitled to receive from the original claimant or assignee, as the case may be, the same fees which surveyors in this state for such services are entitled to receive.

a surveyor to be appointed, &c.

17. *And be it further enacted*, That all acts and clauses of acts coming within the purview and meaning of this act, are hereby repealed and made void.

Repealing clause.

CHAP. 522.

An act to make provision for natural born children.

1. *Be it enacted, &c.* That where any woman shall die intestate, (a) leaving children, commonly called illegitimate or natural, born out of wedlock, and no children born in lawful wedlock, all such estate whereof she shall die seized or possessed of, whether real or personal, shall descend to and be equally divided among such illegitimate or natural born children, and their representatives, in the same manner as if they had been born in wedlock ; and if any such illegitimate or natural born child shall die intestate, without leaving any child or children, his or her estate, as well real as personal, shall descend to, and be equally divided among his or her brothers and sisters born of the body of the same mother, and their representatives, in the same manner, and under the same regulations and restrictions as if they had been born in lawful wedlock ; any law, usage or custom to the contrary notwithstanding.

Illegitimate children may inherit from their mother.
(a See 1766, c. 79—1792, c. 364.)

And from each other.

CHAP. 523.

An act to bar and prevent in future the liquidation and payment of certain descriptions of claims against the state.

Certain claims
against the state
barred from
payment.

1. *Be it enacted, &c.* That from and after the passing of this act, all claims against this state for services, civil or military, done or performed before the first day of June, one thousand seven hundred and eighty-four, and for supplies of any kind whatsoever furnished to, or for the use of the state during the revolutionary war, or at any time since, previous to the said first day of June, one thousand seven hundred and eighty-four, shall be, and they are hereby declared barred from liquidation and payment; any law, usage or custom to the contrary notwithstanding.

CHAP. 524.

An act to do away and to prohibit in future the custom which at present prevails in this state, of preceding the speakers of the General Assembly, and the judges of the superior courts, by officers with wands.

Sheriffs not to
attend the
judges with
wands.

1. *Be it enacted, &c.* That in future no sheriff of any county in this state, shall be either compelled or suffered to precede with or without a wand, or other the like equipment, any of the judges of the superior courts of law and courts of equity in this state, when going to, or returning from the court-houses, as is at present the custom; nor shall it henceforward be either the duty or the practice of the door-keepers of either house of the General Assembly, to precede or walk before the speakers, with wands, maces, or other equipment, either in their going to, or returning from the state-house, during the hours of adjournment.

CHAP. 525.

An act granting longer time to survey certain lands in this state, and prescribing the manner in which entries of claims to the vacant lands in this state shall in future be made.

Certain claim-
ants for unap-

1. *Be it enacted, &c.* That the claimants for unappropriated lands in the several counties in this state, who

have made legal entries of the same at any time previous to the first day of January, one thousand seven hundred and ninety-eight, and have paid the purchase money for the use of the state as required by law, previous to the first day of October, one thousand seven hundred and ninety-nine; and the claimants who have made legal entries in the year one thousand seven hundred and ninety-eight, and have paid or shall pay the purchase money for the use of the state as is required by law, before the tenth day of October, in the year one thousand eight hundred, shall have longer time to cause surveys to be made and returned to the secretary's office, until the first day of January, one thousand eight hundred and two.

propriated lands allowed further time to make, &c. their returns.

(See 1798, c. 493, 1801, c. 569, s. 2.)

2. *And be it further enacted*, That no grants shall issue upon any surveys made after the first day of February, one thousand eight hundred, unless signed by the surveyor of the county.

Surveyor to sign surveys.

3. *And be it further enacted*, That in all cases of legal entries of lands made previous to the first day of January, one thousand seven hundred and ninety-four, in which the warrant of survey and the plats shall be returned to the secretary's office within the time by this act limited, it shall be the duty of the secretary, and he is hereby required, on application, to issue a grant without requiring an affidavit or other proof of the payment of the purchase money, provided such entries shall appear and be found on the transcripts of the entry books lodged in his office.

Grants to issue on legal entries previous to 1794.

4. *And be it further enacted*, That from and after the passing of this act, no grant shall issue on any entry made since the eighth of February, one thousand seven hundred and ninety-five, or hereafter to be made, on the treasurer's receipt, countersigned by the comptroller; but it shall be the duty of the comptroller, and he is hereby required, to make out and deliver to the secretary, a certificate conformable to each receipt by him countersigned, on which the secretary is hereby required to issue the grant; and on no other proof whatever shall he issue grants for lands entered since the year aforesaid.

Manner of issuing grants on entries since a certain time.

5. *And be it further enacted*, That all acts and clauses of acts which come within the purview and meaning of this act, be, and the same are hereby repealed and made void.

Repealing clause.

This act when
to be in force.

6. *And be it further enacted*, That this act shall take effect, and be in force, from the day of the ratification thereof.

CHAP. 526.

(a See 1798, c.
502, 1800, c.
552, 1801, c.
581.)

An act to amend an act, entitled "An act to prevent vice and immorality, by suppressing excessive gaming," passed last session of Assembly. (a)

Whereas it hath appeared to this General Assembly, that the before recited act hath not that good effect which was intended :

To play at cards
or bet thereon,
penalty 40s.

1. *Be it therefore enacted, &c.* That all persons who shall hereafter play at any game of cards in any public house or tavern, and bet any money or property, whether the same be in stake or not ; or any person or persons who shall bet on any game at cards, shall, on conviction, forfeit and pay for each and every offence, the sum of forty shillings ; recoverable before any justice of the peace, one half to the informer, the other half to the use of the poor of the county. And if any keeper of a public house or tavern, shall knowingly suffer, or willingly permit, any game of cards to be played in said public house or tavern, for money or other kind of property, he shall forfeit and pay the sum of five pounds for every offence, to be recovered in like manner ; one half to the use of the informer, the other half to the use of the poor of the parish.

For tavern
keeper to suffer
cards to be play-
ed in his house,
penalty 5l.

CHAP. 527.

An act declaring the time at which acts of the General Assembly of this state shall be in force.

When acts of
Assembly to
take effect.

1. *Be it enacted, &c.* That from and after the passing of this act, all acts of the General Assembly of this state shall be in force, only from and after thirty days after the rise of the session of the General Assembly in which such acts shall have passed, and not before, unless in any act or acts, the commencement of the operation of such act or acts shall be expressly otherwise directed.

CHAP. 528.

An act to amend the thirty-sixth and thirty-seventh sections of an act, passed at Newbern, in one thousand seven hundred and seventy-seven, entitled "An act for establishing courts of law, and for regulating the proceedings therein." (a)

(a 1777, c. 113, s. 36 and 37.)

1. *Be it enacted, &c.* That in future, any witness, being legally summoned to appear at any court of record of this state and give evidence, and failing so to do, on making satisfactory proof to the succeeding court to that to which such witness was summoned, that he or she was by some unavoidable accident or other cause, prevented from attending the court to which he or she was summoned, whereby the court may be of opinion that such witness be exempted from the forfeiture inflicted by the before recited act, such witness so exonerated by the court as aforesaid, shall not be subjected to any costs that may have accrued; any law, usage or custom to the contrary notwithstanding.

When witness's excuse for non-attendance is sustained he is exonerated from all costs.

CHAP. 529.

An act enlarging the power of the governor in the appointment of notaries public.

Whereas by the fifteenth section of an act, passed in the year one thousand seven hundred and seventy-seven, entitled, "An act for appointing sheriffs, and directing their duty in office; and for obliging the late sheriffs, and collectors of public monies who are in arrears, to account for and pay the same, and other purposes;" (b) it is enacted, that the governor for the time being shall, from time to time, as any vacancies may happen, appoint one or more persons, properly qualified, to act as notary or notaries at the different ports of this state, thereby limiting the power of appointment, to persons to act as notaries in the said ports only; and it being expedient and necessary that notaries be appointed in the different parts of this state:

(b See 1777, c. 118, s. 15.)

1. *Be it therefore enacted, &c.* That in future the governor for the time being, shall be vested with a discretionary power, and may from time to time, appoint one or more proper persons, in addition to those previously appointed, to act as notary or notaries in each and every

Governor may appoint notaries discretionary, &c.

county of this state; and the said notaries, and every of them, shall take the oaths appointed for the qualification of public officers, and also an oath of office: which oaths may be taken in, and administered by, the court of any county of the district in which such notary shall reside.

Part of a former act repealed.
(a 1777, c. 118, s. 15.)

2. *And be it further enacted*, That the proviso(a) contained in the fifteenth section of the act herein before alluded to be, and the same is hereby repealed and declared void.

CHAP. 530.

An act for the relief of non-commissioned officers and soldiers of the continental line, and the militia of this state, who have been disabled in the service of the United States or of this state, during the late war; (a) and who are not placed on the pension list of the United States, and are barred by the act of limitation.

(a See 1784, c. 199, s. 2.)

Applicants how to proceed to be placed on the pension list, &c.

1. *Be it enacted, &c.* That any non-commissioned officer or soldier belonging to the continental line, or militia of this state, during the late war, who was disabled by wounds or other known causes, and who did not desert from the said service, shall be entitled to be placed on a pension list of this state, during life or the continuance of such disability, under the following rules and regulations, that is to say, First, every applicant shall attend one of the superior courts of law in person, except where it shall be certified by two justices of the peace that he is unable so to do, and shall produce to the said court the following proof, to wit: a certificate from the commanding officers of the regiment, corps or company in which he served, setting forth his disability, and that he was thus disabled while in the service of the United States, or the affidavit of two creditable witnesses to the same effect; the affidavits of three respectable freeholders of the county in which he resides, ascertaining of their own knowledge, the mode of life, employment, labour, or means of support of such applicant, for the last twelve months. Secondly, the said superior courts, upon receipt of the proofs aforesaid, shall forthwith proceed to examine into the nature of the wound, or other causes of disability of such applicant, and having ascertained the degree thereof, shall certify the same, and transmit the result of their enquiry.

in case their opinion should be to place such applicant on the pension list, to the comptroller of this state; together with their opinion in writing, what proportion of monthly pay of such applicant, will be equivalent to the degree of disability ascertained in manner aforesaid.

2. *Be it further enacted*, That the comptroller of this state, upon receipts of the proofs, certificate and opinion aforesaid, shall cause the same to be duly filed in his office, and place the name of such applicant on a pension list of this state in conformity thereto. *Provided always*, That in case where the said comptroller shall have cause to suspect imposition or mistake, he shall have power to withhold the name of such applicant from the pension list, and make report of the same to the General Assembly which may next happen thereafter.

Duty of the
comptroller.

3. *Be it further enacted*, That all non-commissioned officers and privates of the continental line, or militia of this state, in the late war, of the aforesaid description, being disabled so as to be wholly incapable of obtaining a livelihood by labour, shall be allowed a sum not exceeding five dollars per month; and all non-commissioned officers and privates as aforesaid, who shall not have been disabled in so great a degree, be allowed such sum as shall correspond with the degree of their disability, compared with that of a non-commissioned officer or private wholly disabled.

Allowance that
may be made.

4. *Be it further enacted*, That every invalid shall annually apply to some justice of the peace of the county in which he resides, and take the following oath, viz.
“ A. B. came before me, one of the justices for the
“ county of in the state of North-Carolina, and
“ made oath, that he was examined by the judges of the
“ superior court, appointed by this state for that pur-
“ pose, and obtained a certificate, setting forth that he
“ served in and that he was disabled by
“ and that he now lives in the county of and is
“ the person he represents himself to be; and that he
“ is not on the pension list of the United States.”

Oath to be
taken by inva-
lid, annually.

5. *Be it further enacted*, That a copy of each affidavit, drawn according to the above form, dated and attested by a justice of the peace, be sent by the said justice to the comptroller aforesaid; and that a counterpart of the same be given to the person taking it, to be exhibited to the treasurer of the state: and the comptroller shall annually transmit to the treasurer, an account of

Manner of ob-
taining pay-
ment, &c.

the persons whom he has registered as invalids according to this act, and who have been certified to him to be living within this state in that year, and the sum to which they are respectively entitled; and the treasurer is hereby authorised and required to discharge their annual pensions accordingly.

No sale, &c. of pension to be valid, &c.

6. *Be it further enacted*, That from and after the passing of this act, no sale, transfer or mortgage of the whole or any part of the pension payable to any non-commissioned officer or soldier, before the same shall become due, shall be valid; and every person claiming such pension, or any part thereof, under power of attorney or substitution, shall before the same is paid, make oath or affirmation before some justice of the peace, where the same is payable, that such power or substitution is not given by reason of any transfer of such pension. And any person who shall swear or affirm falsely in the premises, and be thereof convicted, shall suffer as for wilful and corrupt perjury.

Continuance of this act.

(a This act continued for one year, by 1801, c. 586, and also by 1804, c. 663.)

7. *And be it further enacted*, That this act, so far as respects the examination of applicants, shall continue and be in force for the term of two years, and no longer; (a) and that all acts and clauses of acts which come within the meaning and purview of this act, be, and the same are hereby repealed and made void.

CHAP. 531.

An act to amend an act, entitled "An act for the better observation and keeping the Lord's day, commonly called Sunday; and for the more effectual suppression of vice and immorality:" passed in the year 1741. (b)

(b C. 30, s. 10.)

Manner of proceeding where the reputed father of a bastard child does not appear, or absconds, &c.

1. *Be it enacted, &c.* That whenever two justices shall bind the reputed father of any bastard child to the next county court, in manner as prescribed in the tenth section of an act passed in one thousand seven hundred and forty-one, entitled "An act for the better observation and keeping the Lord's day, commonly called Sunday; and for the more effectual suppression of vice and immorality," and the said reputed father shall not appear agreeable to his said recognizance; or whenever any woman shall swear a child to any man in manner as prescribed in the aforesaid act, and the man to whom the said child is sworn shall abscond, or so conceal him-

self that the process of said justices cannot be served on him; then it shall and may be lawful for the county court, on return of the recognizance or other proceedings from the justices of the peace, to order their clerk to issue a *capias* or an attachment, at the discretion of said court, to any county within this state, against the reputed father of such bastard child so absconded; and the same proceedings had thereon as in other like cases of a *capias* or an attachment.

And whereas by the tenth and eleventh sections of said act.(a) it appears that in any subsequent proceedings necessary to be had on any warrant issued by virtue thereof, the authority to act is confined solely to the two justices who issued the same; which in many instances tends to delay, and often to defeat the purposes of the act: For remedy whereof,

(a 1741, c. 39, s. 10, 11.)

2. *Be it enacted*, That from and after the passing of this act, the power and authority to act as provided by said tenth and eleventh sections, shall be, and the same is hereby vested in any two of the justices of the county in which such warrant shall have issued; any thing in said act, or any other, to the contrary notwithstanding.

Power of a former act extended.

3. *And be it further enacted*, That when any county court within this state, shall charge the reputed father of any bastard child with the maintenance of the same, in manner as prescribed in the tenth section of the before recited act, and the said reputed father shall refuse or neglect to pay the same, then it shall and may be lawful for such county court, on notice being served on the defendant at least ten days before the sitting of such court, and such notice being returned by the sheriff of the county that the defendant is not to be found, to order an execution against the goods, chattels, lands and tenements of the said reputed father, sufficient to satisfy and discharge such sum as the said county court may adjudge(b) for the maintenance of the said bastard child. *Provided*, That the party aggrieved by such non-payment shall make application for the same. And that all acts and parts of acts coming within the meaning and purview of this act, be, and the same are hereby declared to be repealed and made void.

Proceedings where the reputed father shall neglect or refuse maintenance, &c.

(b See 1814, c. 871—the accused entitled to trial by jury.)

CHAP. 532.

(a See act 1805,
c. 679.)

An act to prevent actions from abating in certain cases.(a)

Whereas it is a rule of common law, injurious in its operation, that actions of ejectment shall abate by the death of the defendants in such actions :

Actions of eject-
ment not to
abate by the
death of defen-
dant, &c.

1. *Be it enacted, &c.* That no action of ejectment now pending, or which may be hereafter pending, shall abate by the death of any defendant or defendants in said actions, but the same may be revived by serving on the heirs at law, or devisees of said defendant, or the guardian or guardians, within two terms after his decease, a copy of the declaration filed in said action, together with a notice to the heirs or devisees, or their guardian or guardians if they be minors, to appear and defend said suit ; and after such service, the suit shall stand revived, and shall be proceeded on in the same manner as if the defendant or defendants were living.

Where the heir,
&c. is a minor,
the court to ap-
point guardian.

2. *And be it further enacted,* That whenever any of the heirs at law, or devisees of any such defendant to whom the land in dispute shall descend or be devised, shall be minors without guardians, the court wherein the said suit is pending, shall be authorised and empowered, upon application, to appoint a guardian or guardians to defend said suit in behalf of said minor or minors, who shall be next of kin to him or them, or such other person or persons as the court shall approve.

Proceedings
where the heirs,
&c. reside out
of the state.

3. *And be it further enacted,* That whenever any of the heirs or devisees, or their or either of their guardians, shall reside out of the state, the sheriff of the county to whom the declaration and notice shall issue, shall upon making his return, state the fact, and an alias declaration and notice shall issue ; and an advertisement of such notice shall be made in some public gazette of this state, and such as the court shall prescribe, for the space of three months : and if the same return shall be made after such advertisement as aforesaid, the suit may be prosecuted in the same manner and to the same effect, as if such declaration and notice had been served.

And whereas it is uncertain in what cases suits shall not abate by the death of either plaintiff or defendant, by reason of the sixth section of the fifty-seventh chap-

ter of an act, passed in the year one thousand seven (a 1789, c. 314, hundred and eighty-nine : (a) s. 6.)

4. *Be it further enacted*, That whenever any plaintiff or defendant in any suit shall die, and there shall be any contest for the administration on the estate of the deceased, or for the probate of any last will and testament of such deceased person, such suit shall be continued from term to term until said contest is determined, and until after the expiration of one term after such determination, when the same may be abated by plea.

Suits continued on the death of either party, where the will or administration is contested.

5. *And be it further enacted*, That no action of detinue or trover, or action of trespass, where property either real or personal is in contest, and such action of trespass is not merely vindictive, shall in any cause or court, abate or be discontinued by the death of either party, plaintiff or defendant, but the same shall and may be revived in the manner prescribed for the revival of other cases.

Certain actions not to abate by the death of either party.

CHAP. 533.

An act to oblige the sheriffs of this state to furnish candidates for the General Assembly with a true statement of the election for the same.

Whereas the sheriffs of this state were under no penal obligation to give a copy of the polls to any candidate not elected to serve in the General Assembly :

1. *Be it therefore enacted*, &c. That the sheriff in each county of this state, shall on payment of the sum of twenty shillings, make out and furnish any candidate not elected, with a fair and true copy of the polls, and a just statement of the election, within twenty days after such election, under the penalty of one hundred pounds, for the use of the state. *Provided nevertheless*, That such candidate shall make application for such statement or copies to the sheriff, within ten days after the election for which he was a candidate : any law to the contrary notwithstanding.

Sheriffs, on payment of 20s. to give copy of the polls to candidate not elected.

CHAP. 534.

An act concerning the Dismal Swamp Canal Company.

(See 1797, c.
479.)

Whereas it is represented to this General Assembly by the Dismal Swamp Canal Company, that the said company notwithstanding the greatest exertions, may not be able to complete the canal and other works undertaken by them within the time to which they are limited by law ; and also that some alterations may be made in the said works, which will be beneficial to the said company and not detrimental to the public ; and whereas it consisteth with the true policy and dignity of states to encourage works of public utility, and to favour those engaged in the execution of them so far as it may comport with the general good :

Five years more
given to com-
plete their
works.

1. *Be it enacted, &c.* That the farther time of five years be allowed to the Dismal Swamp Canal Company, to be computed from the nineteenth day of September, in the year one thousand eight hundred and one, to complete their canal and other works in such a manner as to entitle them to receive the tolls granted by law.

One road on
bank of the ca-
nal sufficient.

2. *And be it further enacted,* That a causeway or road of the dimensions prescribed by law, on one bank of the said canal shall be sufficient, until the legislatures of the states of North-Carolina and Virginia shall see proper to direct a like road or causeway to be made on the other bank ; any act, or part of an act, to the contrary notwithstanding.

Tolls may be
demanded.

3. And whereas it is represented that parts of the said canal and works may be now used by travellers and others with advantage, and it is just that they who receive a benefit therefrom should make some return for the same ; *Be it enacted,* That the said company shall have a right to demand and receive from those who may choose to use their causeways or water, before the navigation and works shall be completed, a reasonable compensation for the use thereof. This act shall commence and be in force from and after the passing of a like act by the General Assembly of Virginia.

CHAP. 535.

An act to regulate the fees of the secretary of state, and of the governor's private secretary, in certain cases.

1. *Be it enacted, &c.* That in future the secretary of state, for receiving the surveyor's return, filing the plan, making out and recording the grant, with the indorsement thereof and certificate thereon, to be paid by the grantee at or before the delivery of said grant out of the office, shall be entitled to receive the sum of five shillings; for docketing a caveat, filing order of suspension to the court, and entering and filing the judgment of the court thereon, five shillings; for every search, one shilling; for registering every deed for lands purchased for the use of the state, under an act of the General Assembly passed in the year 1798, entitled, "An act to amend the revenue laws as respects the land tax," he shall receive the same fees that the registers of the different counties would be entitled to receive for registering similar deeds, to be paid him by the treasurer.

Fees of the secretary of state.

2. *And be it further enacted,* That the secretary shall keep a receipt book, in which he shall take from each and every person to whom a grant shall be delivered, a receipt.

To take receipts for grants.

3. *And be it further enacted,* That the governor's private secretary, for the certificate of suspension of a grant, shall be entitled to receive two shillings and six pence; for sealing each grant for land, including wafers or wax, paper and tape used in making the same, to be paid by the grantee on or before the delivery of the grant out of the secretary's office, two shillings and six pence.

Fees of the governor's private secretary.

(Altered by 1806, c. 702.)

CHAP. 536.

An act to explain an act, passed in one thousand seven hundred and eighty-nine, entitled "An act to amend an act, concerning proving of wills and granting letters of administration, and to prevent frauds in the management of intestates' estates, passed in one thousand seven hundred and fifteen, and for other purposes."

Whereas doubts have been entertained whether that part of the seventh section of the said act, passed in one

thousand seven hundred and fifteen, which requires the creditors of any person deceased, to make their claims within seven years after the decease of such debtor, or be forever barred, is or is not repealed by the said act, passed in one thousand seven hundred and eighty-nine ;

Certain act declared not to have repealed a section of another.

(a See 1789, c. 308, s. 4, 6.)
(b 1715, c. 10, s. 7.)

1. *Be it enacted, &c.* That the said act passed in the year one thousand seven hundred and eighty-nine, (a) shall not be considered as a repeal of that part of the seventh section of the act passed in the year one thousand seven hundred and fifteen aforesaid, (b) but that the same shall be deemed and held, and taken to be in full force.

And whereas neither the above recited act, nor the act for the better care of orphans, and security and management of their estates, have sufficiently defined the power of the courts in making allowances to guardians, executors and administrators, for their charges and commissions on the management of the estates of deceased persons ; and whereas in many instances improper allowances are made ;

Duty of courts in making compensation to guardians, executors and administrators.

2. *Be it enacted, &c.* That the several courts of this state are hereby authorised and directed, in making allowances of commissions to guardians, executors and administrators, to take into consideration the trouble and time expended in the management of any deceased person's estate, and shall make an allowance of commissions not exceeding five per centum, for the amount of the receipts and expenditures which shall appear to be fairly made in the management of any such deceased person's estate ; and any allowance made shall be held and deemed a proper and fair charge against the assets in the hands of any such guardian, executor or administrator ; and he, she or they, shall and may retain for the same, as well against any creditor of the deceased, as against persons claiming as legatees, or as being entitled to distributive shares of such deceased person's estate ; any law, usage or custom to the contrary notwithstanding. *Provided*, That nothing herein contained shall be construed to prevent any executor, guardian or administrator, from retaining for necessary charges and disbursements, in the same manner as hath heretofore been allowed by law.

Commissions.

CHAP. 537.

An act regulating the duty of sheriffs during the sitting of the superior courts, and directing them as to the service of scire facias.

And be it further enacted, That in future, where any scire facias shall issue to the sheriff of any county within this state, the return of the sheriff thereon that the same has been executed, (a) shall be deemed sufficient evidence of the service of such scire facias, and shall not be held necessary that the same should be made known in the presence of witnesses; any law, usage or custom to the contrary notwithstanding.

What shall be deemed service of a scire facias.

(a See 1784, c. 226, s. 4; two nihil equal to service.)

CHAP. 538.

An act to amend the tenth section of an act, passed in the year one thousand seven hundred and eighty-four, entitled, "An act to regulate and ascertain the several officers' fees therein mentioned, and for altering the time of holding the superior courts of law and equity for the districts of Halifax, Edenton, Newbern and Wilmington." (b)

(b See 1784, c. 223, s. 10.)

Whereas the tenth section of the before recited act provides for such sales only as had taken place previous to the passing of the above recited act;

1. *Be it enacted*, &c. That where any sheriff or coroner has heretofore sold, or may hereafter sell, any real or personal estate in obedience to executions, or writs of venditioni exponas to him directed, and have not, or may not, have executed deeds to the purchaser for the same, such sheriff or coroner though he may be out of office, shall and he is hereby required to seal and execute a deed or deeds of sale for such real or personal estate so sold, to such purchaser at said sale, and have satisfied or paid the money for the same; and in case any sheriff or coroner having sold any estate as aforesaid, has died, or may die, or remove out of the state, then his successor in office is hereby required and empowered, on application, to make such conveyance as is herein directed.

Sheriffs, &c. to make deeds for property sold by them, altho' out of office.

2. *And be it further enacted*, That so much of the before recited act as comes within the meaning and purview of this act, be and the same is hereby repealed; and that this act shall be in force from and after the day of its ratification.

Repealing clause.

CHAP. 539.

An act for the better regulation of the inspection of lumber in the sea-port towns in this state.

Whereas complaints are made that persons are employed to inspect saw-mill lumber, staves and shingles, without taking the oath required of inspectors of produce, under an act passed in the year 1784, entitled (a 1784, c. 206.) “An act to prevent the exportation of unmerchable commodities :”(a)

Penalty on persons inspecting lumber without being qualified.

1. *Be it enacted, &c.* That from and after the passing of this act, no person shall inspect any saw-mill lumber, staves or shingles, without being first qualified as directed by the above recited act, under the penalty of twenty pounds for every such offence ; to be recovered by any jurisdiction having cognizance thereof, one-half to the use of the state, the other half to the person suing for the same.

2. And whereas there may not be inspectors legally appointed in all the sea-port towns in this state : *Be it enacted,* That any three justices of the peace for the county including such place of inspection, shall be at liberty to appoint one or more persons to act as inspectors until the next succeeding county court.

CHAP. 540.

An act to amend an act, for giving further time for probate and registration of bills of sale for slaves and marriage settlements.

Whereas in the first section of an act, entitled “An act directing that marriage settlements and other marriage contracts shall be registered, and for preventing injury to creditors,” passed at Newbern in the year one thousand seven hundred and eighty-five, it is directed that all marriage settlements and other marriage contracts shall be proved in the same manner as other deeds, and shall be registered : and whereas it appears to this General Assembly that a number of good citizens, for want of sufficient information, have neglected to avail themselves of said act : for remedy whereof,

(See 1785, c. 238, and 1814, c. 875, s. 2.)

Further time allowed for pro- 1. *Be it enacted, &c.* That all marriage contracts which were made, formed and entered into previous to

the passing of the above recited act, shall have a further time of twelve months allowed for probate and registration; and shall when thus authenticated and perpetuated, be held and deemed as valid in law, to all intents and purposes, as if they had been proved and registered within the time required by the above recited act; any law, usage or custom to the contrary notwithstanding.

bate, &c. of marriage settlements.

2. And whereas the time allowed for registering bills of sale is expired: *Be it enacted*, That a further time of two years be allowed for proving and registering bills of sale for slaves, which, when registered within the time aforesaid, shall be good and valid to all intents and purposes as if proved and registered within the time required by an act, passed in the year one thousand seven hundred and ninety-seven, entitled “An act granting a further time for proving and registering bills of sale and deeds of gift.”

And of bills of sale for slaves.

(See 1797, c. 481, s. 1, 1802, c. 622.)

CHAP. 541.

An act to amend an act, entitled “An act to amend the several processioning laws now in force in this state,” passed in the year one thousand seven hundred and ninety-two. (a)

(a See 1792, c. 365.)

Whereas by the before recited act there is no provision made for settling disputes which may arise between any two or more persons relative to lines: and for remedy thereof,

1. *Be it enacted, &c.* That in all cases where a line is disputed, and the processioner is forbidden by either of the parties interested in the event of the processioning, to proceed further in running and marking the same, it shall be the duty of such processioner, he being legally appointed, to report the same, stating truly all the circumstances of the case, with the name of the person or persons who forbade the further proceeding, to the next succeeding court of the county in which the land lies; and it shall be the duty of the court receiving such report, to appoint five respectable freeholders, whose duty it shall be to appear with the processioner on the line or lines so disputed, and proceed, after being sworn to do equal right and justice between the contending parties, to establish such disputed line or lines

Duty of processioner in case of disputed line.

as shall appear to them right, and procession the same, and make report of their proceedings to the next succeeding court; which proceedings shall be recorded by the clerk of said court, as directed by the above recited act. *Provided nevertheless*, That either of the contending parties may call in any other surveyor, to act with the processioner and complete such survey; and the party against whom the decision is made, shall pay all costs.

CHAP. 542.

An act to amend an act, passed at Newbern, October session, one thousand seven hundred and seventy-seven, entitled "An act to prevent abuses in taking up stray horses, cattle, hogs, sheep, and other things therein mentioned." (a)

(a See 1777, c. 119.)

Whereas the before recited act makes no provision that the taker up of stray beasts should give bond and security for their faithful performance, on his part, with the requisites of the said act; and many times the taker up of strays removing himself from the county wherein the stray was taken, and thereby prevent the owner from recovering his property, and to the great injury of the county:

Duty of taker-up of strays.

1. *Be it enacted, &c.* That in future any person taking up a stray or strays as aforesaid, shall first give bond in a sum at least double the sum which may be deemed to be the value of such stray or strays, with approved security, to the ranger of the county wherein said stray shall be taken up, for his or her faithful compliance with the aforesaid act, by delivering up the stray or strays to the owner (if claimed in due time) or otherwise accounting with the county trustee as by law directed.

Ranger's fees.

(As to rangers' fees, see 1777, c. 119, s. 10, 1784, c. 223, s. 6, 1815, c. 892, 1816, c. 909, & 1793, c. 403.)

2. *And be it further enacted*, That the taker up of every stray in future, shall pay to the ranger with whom he may enter the beast, the sum of two shillings, for his trouble in writing the bond; which shall be repaid him by the owner recovering said stray. *Provided*, That if the sum which may be deemed to be the value of such stray so taken, shall not exceed forty shillings, then no bond shall be required.

CHAP. 543.

An act for the division of Wilkes and Tyrrell counties.

Whereas the great extent of the county of Wilkes, renders the attendance of many of the inhabitants thereof at courts and other public meetings, expensive, inconvenient and oftentimes impracticable: For remedy whereof,

1. *Be it enacted, &c.* That all that part of the county of Wilkes lying west of the extreme height of the Appalachian Mountains, shall be, and the same is hereby erected into a separate and distinct county by the name of Ashe. County of Ashe established.

CHAP. 544.

A supplementary act to an act, entitled "An act for the division of Wilkes and Tyrrell counties."

1. *Be it enacted, &c.* That the commissioners appointed by the before recited act, or any two of them, with the surveyor of Tyrrell county, shall have full power to run the dividing line between the counties of Tyrrell and Washington, beginning at Bull Point, thence to run up the bay to the mouth of Deep Creek, thence up said creek to the Cypress Bridge, thence a direct course to Lake Phelps, where Mall Creek intersects said lake; thence south south west to Hyde county line; provided said line shall not cross the road that leads from John Davenport's to the upper river bridge on Scuppernong River. And the said line when run, shall be returned by the surveyor to the court of the counties of Tyrrell and Washington, and shall be entered by the clerks thereof on record: which surveyor and clerks shall be allowed a competent sum by the courts of Tyrrell and Washington for their services. Dividing line between Washington and Tyrrell counties.

Read three times, and ratified in General Assembly, }
the 23d day of December, A. D. 1799. }

BENJAMIN SMITH, S. S.

MUSSENDINE MATTHEWS, S. H. C.

WILLIAM WHITE, secretary.

Benjamin Williams, Esq. governor.

At a General Assembly, begun and held at Raleigh, on the seventeenth day of November, in the year of our Lord one thousand eight hundred, and in the twenty-fifth year of the independence of the said state.

CHAP. 545.

An act to authorise and empower Christian Jennett, the guardian and next friend of William Jennett, Mary Jennett, Jabez Jennett, and Aquilla Jennett, of the county of Currituck, infants under the age of twenty-one years, to sell and convey to the United States of America, four acres of land at the Head Land of Cape Hatteras, part of the estate in common of them the said William, Mary, Jabez and Aquilla, and to vest in the United States an absolute and indefeasible estate in fee simple therein.

Preamble.

Whereas the General Assembly of this state, by an act passed in their session at Newbern, in July, one thousand seven hundred and ninety-four, entitled "An act to cede to the United States of America certain lands upon the conditions therein mentioned," reciting among other things, "that whereas the Congress of the United States have passed an act to erect a light-house on the Head Land of Cape Hatteras, and that whereas it is expedient that the United States should have the exclusive jurisdiction (together with other places therein mentioned) of a sufficient quantity of land, on which said light-house shall be erected," did enact, under the conditions and restrictions therein expressed, "that the exclusive jurisdiction, among other places therein mentioned, of four acres of land at the Head Land of Cape Hatteras, shall be ceded and stand vested in the United States, as soon as the proprietors of the said lands shall convey the same to the United States;" and in their session at Raleigh, in November, one thousand seven hundred and ninety-seven, under the conditions therein expressed, did revive and continue in force so much of the before recited act as cedes, among other places, four acres of land at the Head Land of Cape Hatteras.

And whereas it is represented to this General Assembly, that the four acres of land at the Head Land of Cape Hatteras affording the most eligible site for a light-house, are in the seisin and possession, as tenants in common in fee, of William Jennett, Mary Jennett, Jabez Jennett, and Aquilla Jennett, all of the county of Currituck, infants under the age of twenty-one years, to whom Christian Jennett, their mother, hath been duly appointed guardian; that the United States are

willing to purchase the said four acres of land, and have offered for the same a fair and full price, to wit: at the rate of twelve and an half dollars per acre, amounting to fifty dollars; and that the said William, Mary, Jabez and Aquilla, who though not of full age, have sufficient judgment and discretion to estimate the value of this part of their property, are desirous, of their own free will and accord, and are further advised by their mother and guardian aforesaid, and others their relations and friends, to accept the liberal offer of the United States, and for that purpose have actually laid off by metes and bounds the four acres of land selected by their agent.

And whereas also it is highly important to the commercial interests of the United States of America, that a light-house should be erected on the most eligible site at the said Head Land of Cape Hatteras as speedily as possible.

Be it enacted, &c. That the said William Jennett, Mary Jennett, Jabez Jennett, and Aquilla Jennett, be and they are hereby authorised, and fully empowered to sell and convey to the United States of America, four acres of land, situate, lying and being at or near the Head Land of Cape Hatteras, in the county of Currituck, beginning at a cedar post at John Wallace and John Gray Blount's line, running thence east twelve poles and four-fifths of a pole to a cedar post at the corner of Wallace and Blount's line, thence north, binding on said line, fifty poles, to a cedar post at the corner of Wallace and Blount's and Thomas Farrow's lands, thence west, binding on Farrow's line, twelve poles and four-fifths of a pole to a cedar post, thence a direct course to the first station; and to do, make, execute and suffer all and every such act and acts as shall or may be advised or devised to assure and secure to the said United States, an absolute and indefeasible estate in fee simple of, in and to the said four acres of land above described, with the premises and all and singular the appurtenances to the same belonging, or in any wise appertaining; and that the said act and acts of them the said William, Mary, Jabez and Aquilla, shall be as effectual in law to conclude them, their heirs and assigns forever thereafter; and the estate by them conveyed to the United States, shall be and enure to their use, benefit and behoof; and they the said Wil-

Wm. Jennett & others empowered to sell four acres of land to the U. States.

Situation.

Land to be secured to the United States.

liam, Mary, Jabez and Aquilla, shall be as effectually bound by any covenant or covenants they shall or may make and enter into with the said United States, touching and concerning the premises, as if they had arrived to full age, any law, usage or custom to the contrary notwithstanding.

CHAP. 546.

An act to authorise the secretary of state to issue grants in certain cases.

Grants to issue on entries not exceeding 400 acres, made in 1794.

Be it enacted, &c. That from and after the ratification of this act, the secretary of state shall be and he is hereby authorised to issue grants on all entries of lands not exceeding four hundred acres made in the year one thousand seven hundred and ninety-four, to the persons entitled thereto, if the words, matters and things relative to the same, shall appear to be just and fair, and shall agree with the transcript of the books lodged in his office; any law, usage or custom to the contrary notwithstanding.

CHAP. 547.

An act limiting the time for sheriff's to complete the collection of public taxes.

One year for collecting allowed.

Not to alter the law for accounting.

1. *Be it enacted, &c.* That for the year one thousand eight hundred, and for every year in future, the several sheriffs in this state shall have one year, from the day prescribed by law for the settlement of their public accounts, to finish the collection of the taxes they are bound by law to account for; any law, usage or custom to the contrary notwithstanding. *Provided always, and it is hereby enacted,* That nothing in this act contained shall extend or be construed to alter the law now in force directing the manner and time of sheriff's accounting with the comptroller and treasurer.

2. *And be it further enacted,* That this act shall bar the collection of any taxes after the expiration of the time aforesaid.

CHAP. 548.

An act to repeal so much of the several laws now in force in this state as grants power to the trustees of the University of North-Carolina, to seize and possess for the use of the said University, any escheated or confiscated property.

1. *Be it enacted, &c.* That from and after the passing of this act, all acts or clauses of acts, which have heretofore granted power to the trustees of the University of North-Carolina to seize and possess any escheated or confiscated property, real or personal, shall be, and the same is hereby repealed and made void.

Former acts repealed.

(Repealed by 1805, c. 677, as to escheated property.)

2. *And be it further enacted,* That all escheated or confiscated property which the said trustees, their agents or attornies, have not legally sold, by virtue of the said laws, shall from hence revert to the state, and henceforth be considered as the property of the same, as though such laws had never been passed.

Property to revert to the state.

CHAP. 549.

An act to amend the third section of an act, entitled, "An act to amend the revenue laws, as respects the land-tax." (a)

(a See 1798, c. 492, s. 3; and 1808, c. 760.)

Whereas when persons purchase lands under the above recited act, it becomes necessary they should present to the sheriff a fair plat of the land they make choice of, under such purchase, within ninety days from the time of purchasing the same;

Be it therefore enacted, &c. That in case of purchases of land under the said act, the purchaser shall within three months after the passing of this act, or after such purchase, present to the sheriff, or person authorised to make such title, a fair plat of the land they make choice of under such purchase; and on failure thereof, the said land so purchased, shall be deemed lapsed or vacant land, and to have reverted to the state, and liable to be re-entered in the entry-taker's office, as if the same had never been appropriated.

A plat to be presented to the sheriff; on failure, the land to be deemed vacant.

CHAP. 550.

(a See 1797,
c. 483.)

An act to amend the several acts of Assembly now in force in this state, with respect to the entering and obtaining titles for lands.(a)

If payment be made the day previous to the next Assembly, the entry not deemed lapsed.
(b See 1801, c. 569, s. 6.)

1. *Be it enacted, &c.* That all persons who have made entries of lands since the first day of January, in the year one thousand seven hundred and ninety-nine, shall have until the day previous to the meeting of the next annual General Assembly, (b) to pay the purchase money for the same to the state; and until the said day previous to the meeting of the next annual General Assembly aforesaid, no entry of land entered since the aforesaid first day of January, one thousand seven hundred and ninety-nine, shall be held or deemed a lapsed entry.

2. *And be it further enacted,* That this act shall be valid and in force from and immediately after the ratification thereof; any thing in the act declaring the time at which acts of the General Assembly shall be in force, to the contrary notwithstanding.

CHAP. 551.

(c See 1810,
c. 794.)

An act directing the manner of granting injunctions.(c)

Whereas injunctions are frequently applied for, for the mere purpose of delay, and the facility of obtaining them sometimes enables debtors to defeat creditors of their just claims: For remedy whereof,

Oath and bond before injunction issues.

Be it enacted, &c. That no injunction, commanding the stay of an execution obtained in any court of this state, except on judgments in actions of detinue, shall be granted by the judges, or any of them, for any other or greater sum than what the complainant or complainants shall on oath declare to be just, and not until said complainant or complainants shall enter into bond, with sufficient securities, before the master of the court of equity whence the injunction issues, for the payment into court of the sum complained of, and all costs upon the dissolution of the injunction.

No injunction to issue but within four months, unless, &c.

And be it further enacted, That no injunction to stay an execution shall issue but within four months after the judgment at law is obtained, unless it shall appear from the oath of the complainant or complainants to the judge

before whom application is made for an injunction, that said application has been delayed in consequence of the fraud or false promises of the plaintiff at law, practised or made at the time of or after obtaining judgment, or unless it shall appear on oath that the said complainant or complainants was or were out of the state at the time of entering up judgment, so that application could not be made within the time aforesaid.

CHAP. 552.

An act to amend the third section of an act, entitled, "An act for the prevention of vice and immorality, by suppressing excessive gaming." (a) (a See 1798, c. 502, s. 3; 1801, c. 581.)

Be it enacted, &c. That from and after the passing of this act, it shall be the special duty of sheriffs of each county in this state, to sue for, and recover, in the name of the governor for the time being, the penalty set forth in the said third section, from any person who may suffer any of the games therein mentioned to be played in his or her house; for which services the sheriff so suing and recovering, shall be allowed twenty per centum: And every sheriff, who shall fail or neglect, after information to him made, or shall, after the same may come to his knowledge, fail to sue for and perform the duties by this act required, shall forfeit and pay twenty-five pounds, to be recovered before any court having jurisdiction thereof, to the use of the person suing for the same, and pay the costs of prosecution; any law, usage or custom to the contrary notwithstanding. Duty of sheriffs to sue for the penalty.

CHAP. 553.

An act to revive and continue in force an act, passed at Raleigh, in the year 1795, entitled "An act giving further time for the registration of certain deeds issued from Lord Granville's office." (b) (b See 1795, c. 438, s. 1.)

Whereas many of the good people within this state have not availed themselves of the benefits of the said recited act: And whereas it would be but just and right that the persons holding lands under such deeds, should have the privilege of perpetuating the same:

Act to continue
in force 2 years
longer.

Be it therefore enacted, &c. That from and after the passing of this act, the said recited act shall be and continue in full force and operation for two years hereafter, any thing in the before recited act to the contrary notwithstanding.

CHAP. 554.

An act giving further time for the registering grants and proving deeds and mesne conveyances, which have not been proved and registered within the time heretofore appointed by law.

Two years longer
allowed for
registering
grants.
(a See 1802,
c. 621—1798,
c. 507.)

Be it enacted, &c. That all grants for lands, which have not been registered within the time heretofore appointed by law, shall and may, within two years after the passing of this act, (a) be admitted to registration, and shall be as good and valid as if they had been registered within the time heretofore allowed by law.

Deeds not yet
proved, allowed
the like period.

2. *And be it further enacted,* That all deeds and mesne conveyances of lands, tenements and hereditaments, not already proved or acknowledged and registered, shall and may within two years after the passing of this act, be acknowledged by the grantor or grantors, his or their agents or attornies, or be proved agreeably to the laws heretofore in force; or being so acknowledged or proved, be delivered, for registration, to the registers of the counties where such lands, tenements and hereditaments are respectively situated; and all deeds and mesne conveyances whatsoever, which shall be acknowledged or proved and registered according to the direction of this act, shall be good and valid, and take effect as fully to the use and benefit of the grantees, their heirs or assigns, respectively, as if such deeds and mesne conveyances had been acknowledged, proved and registered agreeably to the directions of any laws heretofore made.

CHAP. 555.

An act to compel certain persons to describe and make known the bounds and limits of their lands.

Whereas it is represented to this General Assembly, that certain persons having entered large quantities of

land, and taken out grants for the same; or having Preamble.
 purchased the large tracts so entered, have only returned a small part of such lands, and permitted the residue to be sold for the taxes, and purchased in for the state, and have not described or made known the situation or bounds of the part retained and returned as taxable property, or have conveyed the whole of said land by deed or deeds, reserving therein a certain number of acres to be laid off out of said quantity in such places as the person so conveying should think proper; and the person to whom such conveyances are made have suffered the lands to be sold for the taxes, and purchased in for the state as aforesaid: And whereas it is also represented to this General Assembly, that whenever any person entering any part of the land purchased in as aforesaid, attempts to survey the same, the person or persons claiming under such reservation or reservations, or by reason of their holding a part of the lands originally entered by and granted to them, prevent said survey by making claim to the particular part so attempted to be surveyed, whereby the citizens of this state are precluded from appropriating any part of the lands purchased in for the state as aforesaid: For remedy whereof,

Be it enacted, &c. That all persons claiming lands entered since the year one thousand seven hundred and ninety-two, the bounds whereof are not described or known, shall within six months after the passing of this act, describe, survey and make known the situation, bounds and limits of the several tracts so claimed, and shall cause a fair plat of the lands contained in each and every county to be made and recorded in the office of the register of each and every county wherein the said lands, or any part thereof, are situated. Persons claiming lands entered since 1792, to describe the bounds thereof.

2. And be it further enacted, That in case said lands shall not be surveyed by any lawful officer, and the bounds thereof not made known by correct and fair plats recorded in the register's office as aforesaid, describing the situation and limits of each and every tract, where it shall be surveyed in different tracts, within the period aforesaid, the same and every part thereof not described, surveyed and made known, shall be held and deemed lands belonging to the state, and subject to be entered by and granted to the citizens thereof, in the same manner, and under the same rules Plats to be made out.

Where the bounds of land are not so made known, it shall be deemed state land.

and regulations, as the unappropriated lands of this state are liable to be entered and granted.

Register's fee.

3. *And be it further enacted*, That the register, for recording each and every plat as by this act required, shall be allowed two shillings for his services.

CHAP. 556.

An act to amend an act, entitled "An act to perfect the titles of the officers and soldiers of the continental line of this state, and of claimants under entries made in the office of John Armstrong," passed last session of Assembly.(a)

(a Sec 1799, c. 521, s. 2, 3, 4.

Whereas it is represented to this General Assembly, that some inconveniences have arisen under said act: For remedy whereof,

2d section of former act repealed.

Secretary to note on transferred warrants.

Warrants to be advertised.

If warrant not claimed, a grant to be made out thereon.

Name of grantee must be on the muster-roll.

(b A board is appointed to grant warrants. See 1819, c. 992.)

Illegal warrants how to be dealt with.

1. *Be it enacted, &c.* That the second section of the above recited act be, and the same is hereby repealed and made void; and in future, when any military land warrant that hath been transferred, shall be returned to the secretary's office, with the plats of survey, for the purpose of obtaining a grant or grants, it shall be the duty of the secretary to note on the back of said warrant, the day when returned into his office, and immediately advertise the same in the State Gazette for three months, designating in the advertisement, the number of the warrant, the quantity of acres, to whom granted, by whom assigned, and for whom surveyed; and if no person should come forward, by himself, his heir, agent or attorney, and claim such warrant, within six months after the same shall be filed in the secretary's office, then and in such case, the secretary shall proceed to make out a grant, or grants, upon the returns made upon such warrants: *Provided*, That it shall not be lawful for a grant to issue upon the returns of any warrant, unless the name of such person to whom the warrant was granted, shall appear on the muster-roll lodged in the secretary's office, or hath been issued by the secretary under some special resolution of the General Assembly, or shall, by the report of Jesse Franklin, John M. Binford, and Brittain Sanders, commissioners appointed in the year one thousand seven hundred and ninety-two, appear to be just.(b)

2. *And be it further enacted*, That where the secretary of state shall, on examination, find a warrant not to be

legal, agreeable to the directions of this act, he shall note the same on the warrant; and in case the original claimant, or assignee of such warrant, shall produce a certificate of some one of the officers of the late North-Carolina line, who hath not been reported against for any unfair or unjust transaction in drawing military land warrants, or granting false certificates for that purpose, setting forth that the said person did actually serve in the late war, and is entitled to a compensation of land, agreeably to an act of Assembly, entitled "An act to amend an act, entitled an act for the relief of the officers and soldiers of the continental line, and for other purposes," passed at Hillsborough, in the year one thousand seven hundred and eighty-three, accompanied with the proof of two creditable witnesses of the county where such person resided in the time of the late war, taken in open court of the said county, and certified by the clerk thereof, with the county seal thereunto annexed, setting forth that they knew the person to whom such warrant was granted, and that he actually did serve in the late North-Carolina continental line, and stating also any and what particulars they knew concerning said person; and in case the said warrant has been transferred, once or oftener, proof shall be made of the fairness of each transfer, by the oath of one credible witness at the least, taken in open court as aforesaid and certified accordingly: then and in such case, the secretary shall issue a grant or grants thereon, after the same hath been duly advertised agreeably to the directions of this act. *And provided* that such proof is not made, and lodged with the secretary within twelve months after the said warrants and plats of survey are returned to his office, the said warrants and returns shall be null and void, and the land so located and surveyed, shall lapse, and may thereafter be located again by any other person, upon a warrant that shall be legal agreeable to this act, and a title thereupon obtained.

Proof to be ad-
duced of fair-
ness of transfer.

If proof not
made, warrants
and returns to
be void.

3. *And be it further enacted*, That when there cannot be found land sufficient to satisfy any warrant of six hundred and forty acres, and from that quantity upwards to one thousand acres, where such warrant may be first located, it shall be lawful for the deficiency of such warrant to be located and surveyed in some other place, and in such case, two grants may issue on the

If not sufficient
land where a
warrant is first
located, the de-
ficiency to be
had in some
other place.

Plats to be designated.

Warrants upwards of 1,000 acres may be located in like manner.

Warrants on entries made in J. Armstrong's office, to be located in same manner.

same warrant; and it shall be the duty of the surveyor, in making out his plats and returning the same, particularly to designate and return thereon the number of such warrant, and the quantity of acres therein contained; and both grants shall be made out in the name of the person to whom such warrant issued, his heir or assignee, and not in the name of two or more persons; and warrants upwards of one thousand acres may, in like manner, be located and surveyed in three several places, observing the same rules as are prescribed and directed, in warrants of six hundred and forty acres to one thousand acres.

4. *And be it further enacted*, That entries heretofore made in John Armstrong's office, whereon warrants have issued, may be located and surveyed, in the same manner as is by this act directed concerning military lands, where there shall not be found sufficient vacant lands to satisfy the quantity of acres contained in such warrant, in one place: *Provided* that it shall be made appear that the purchase or entry money shall have been fully paid.

CHAP. 557.

An act to amend an act, entitled "An act to direct the mode of conducting disputed elections in this state, and to direct the mode of presenting petitions to the General Assembly, in certain cases," passed at Raleigh, in the year one thousand seven hundred and ninety-six.

(a 1796, c. 466, s. 1.)
Preamble.

Whereas, by the before recited act, (a) witnesses on behalf of the parties who intend disputing any election for members of the General Assembly, cannot be compelled to appear before any justice of the peace, or other persons lawfully appointed to take depositions, by reason of no penalty being affixed thereto: For remedy whereof,

Penalty on persons not attending to give testimony.

1. *Be it enacted, &c.* That from and after the passing of this act, if any person, being legally summoned by any lawful officer, by subpoena issued by a justice of the peace, or any other person authorised by law to take depositions, to appear before them, or either of them, to give testimony on behalf of either of the parties disputing such election, he or they failing to attend, agree-

able to the said subpoena, and give testimony as aforesaid, shall forfeit and pay the party grieved, the sum of twenty pounds, to be recovered by action of debt before any jurisdiction having cognizance thereof: *Provided*, nothing herein contained shall be construed to extend to the compelling any such witness to answer any question tending, directly or indirectly, to discover the person for whom he voted, or to discover his disqualifications as an elector.

2. *And be it further enacted*, That any person being so summoned, and appears and gives testimony as aforesaid, shall be entitled to receive from the person at whose instance he was summoned, the sum of six pence for every mile travelling to and from the said place, and his ferriages, to be recovered before any justice of the peace in said county.

Allowance to witnesses.

CHAP. 558.

An act better to ascertain how witnesses attending in behalf of the state, in certain cases, shall be paid.(a)

(a Altered by 1804, c. 665.)

Whereas the present provision made for witnesses attending in behalf of the state is uncertain; and whereas much injury is like to accrue to the state, by being chargeable with the payment of unnecessary witnesses: To remedy which,

Be it enacted, &c. That from and after the passing of this act, all witnesses who shall be summoned or recognized to appear on behalf of the state in any prosecution now depending, or to depend, in any of the superior courts of law, and courts of pleas and quarter-sessions,(b) and shall attend accordingly, shall be allowed the same pay for their daily attendance and mileage as is allowed to witnesses attending in civil suits, and such fees for attendance shall be paid by the defendant, upon conviction only; and if the defendant be acquitted on any charge of any inferior nature, the court may, at their discretion, order the prosecutor to pay the costs, if such prosecution shall appear to have been frivolous or malicious, but if the court shall be of opinion that such prosecution was not either frivolous or malicious, and a greater number of witnesses have been summoned

Witnesses for the state to be allowed the same as in civil suits.

(b Repealed as to county courts except in cases of petit larceny—see 1804, c. 665, s. 5.)

How paid.

(To be paid by the county in certain cases—see 1819, c. 1008.)

by such prosecutor than were, in the opinion of such court, necessary to support the charge, they may notwithstanding order the prosecutor to pay the attendance of such unnecessary witnesses, if it shall appear that they were summoned at his special instance and request.

Where the defendant is not able to pay costs, the state to pay.

(County to pay —see 1809, c. 769.)

Cases where the defendant is not to pay costs.

2. *And be it further enacted*, That in all cases where the defendant, upon conviction, shall be unable to pay the costs, and in those cases where, being acquitted, the court shall not think fit to order the prosecutor to pay the costs, it shall be the duty of the courts respectively to ascertain, by an entry to be made of record, what witnesses are to be paid by the state, who shall be paid in manner herein after directed.

3. *And be it further enacted*, That in all cases where an indictment for any offence of a capital nature shall be preferred in any of the superior courts of law within this state, and the same shall be found by the grand jury to be a true bill, and the defendant on the trial of the issue of traverse shall be acquitted, he shall not be liable to pay the witnesses for their attendance in behalf of the state, but the same shall be paid in manner hereinafter directed.

Where the state pays costs, the course to be taken.

(See 1809, c. 769, s. 2.)

4. *And be it further enacted*, That it shall be the duty of the several superior courts of law and courts of pleas and quarter-sessions within this state, before whom a trial for a criminal offence shall be had, in which the state shall or may become liable to pay the witnesses for their attendance, and the said courts are hereby required to enter the names of such witnesses, with the amount of their allowance on record, a certificate of which made by the clerk of the court in which the prosecution has been had and determined, and under the seal of his office, shall be filed with the comptroller, who, after entering such claim in a book by him to be kept for that purpose, shall issue a warrant on the treasurer for the amount thereof, who is hereby directed to pay off and discharge the same, and shall be allowed therefor in the settlement of his public accounts.

What is to be done, where the defendant is unable to pay costs.

5. *And be it further enacted*, That no claim authorised by this act, in cases where the defendant is liable, but is unable to pay the costs, shall be allowed until the defendant shall be discharged by act of insolvency, or until an execution shall have issued against the estate or the body of such defendant, and a return thereon by

the sheriff of the proper county, that he has no property to satisfy the same, or that he is not to be found, a copy of which return, certified by the clerk, shall accompany the certificate of allowance as aforesaid; neither shall any claims under this act be discharged by the treasurer after the expiration of two years from the time that the same shall have been ascertained and allowed.

6. *And be it further enacted*, That all acts and parts of acts that come within the meaning and purview of this act, are hereby repealed. (a)

Former acts repealed.
(a See 1779, c. 138, s. 4.)

CHAP. 559.

An act to amend an act passed at Fayetteville, in the year one thousand seven hundred and ninety-three, entitled, "An act directing the manner of proceeding against the several officers therein mentioned." (b)

(b See 1793, c. 384, s. 5.)

Whereas the above recited act has been found insufficient to answer all the good purposes intended thereby: For remedy thereof,

Be it enacted, &c. That from and after the ratification of this act, when any sheriff, constable or clerk, of any court within this state, shall, by virtue of his office, receive any sum or sums of money for or on account of any person or persons whatsoever, and shall not on application made to him pay the same, such person or persons may give to such sheriff, constable or clerk ten days notice in writing, to be proved in the usual manner, to appear before some justice of the peace of the county, to shew cause why the justice should not grant judgment and issue execution for the same against him and his securities. (c) And if such sheriff, constable or clerk shall not appear before such justice, or if appearing, does not shew sufficient cause to the contrary, it shall be lawful and proper for such justice to enter up and grant judgment and award execution against such delinquent for the money due.

Sheriffs, constables and clerks, how to be dealt with on failing to account for money received.

(c See 1802, c. 619—1819, c. 1002.)

Provided, That nothing contained herein shall be construed to extend to any case where the demand or sum shall exceed twenty pounds; (d) any law, usage or custom to the contrary notwithstanding.

Not to extend to demands above 20l.

(d See 1802, c. 619—1819, c. 1002.)

CHAP. 560.

An act making compensation to jailers for the safe-keeping and humane treatment of persons in confinement.

Whereas the fees allowed by law to jailers are too small and inconsiderable to pay them for their trouble and expense,

Allowances to jailers.

Be it enacted, &c. That from and after the passing of this act, the jailers within the several counties within this state, shall receive for each prisoner, per day, for finding one pound of wholesome bread, one pound of good roasted or boiled flesh, and a sufficient quantity of water, and every necessary attendance, and keeping the prison clean, the sum of two shillings and six pence,^(a) and no more, any law to the contrary notwithstanding.

(a See 1815, c. 899—1817, c. 944.)

CHAP. 561.

An act directing a mode of defraying the expenses of apprehending and bringing to punishment fugitives from justice.

Preamble.

Whereas there is no law in force in this state authorising the executive thereof to draw upon the public treasurer for monies to defray the expenses of special agents and others employed in apprehending fugitives from justice and conveying them to the places where they may be legally tried: For remedy whereof,

Manner of pursuing fugitives.

Be it enacted, &c. That from and after the passing of this act, it shall be lawful for the governor for the time being, on information already made to him, or hereafter to be made, of any person or persons having committed any offence of a capital nature within this state, and of having fled beyond or out of the jurisdiction thereof, to any of the United States, either to employ a special agent with a sufficient guard or escort, to pursue and apprehend such fugitive or fugitives from punishment, or to issue his proclamation, and therein and thereby offer a reward not exceeding two hundred pounds, according to the nature of the case, as in his opinion may be sufficient for the purpose, to be paid to such person or persons as shall apprehend such fugitive or

A reward to be offered not exceeding 200l.

fugitives, and deliver him or them to such person at such place as in said proclamation shall be directed. And it shall also be lawful for him, from time to time, to issue his warrants on the public treasurer for sufficient sums of money to defray the expenses of such special agent and guard or escort, or to pay the reward offered by such proclamation upon the delivery of such fugitive in manner as therein directed, for which sum or sums of money the treasurer shall be allowed in the annual settlement of his accounts.

CHAP. 562.

An act to amend an act, entitled "An act to prevent the stealing of slaves, or by violence, seduction, or any other means, taking or conveying away any slave or slaves, the property of another, and for other purposes therein mentioned," passed at Halifax, in the year 1779.^(a) (a See 1779, c. 142, s. 2.)

Whereas by the above recited act, no penalty is annexed to the stealing, carrying off and selling free negroes and mulattoes within the limits of this state: For remedy whereof,

Be it enacted, &c. That any person or persons who shall hereafter steal or sell any free negro, or free negroes, or persons of mixed blood, knowing the same to be free or stolen; or shall by violence, seduction, or any other means, take or convey any free negro or free negroes, or persons of mixed blood, from any part of this state to another, with an intention to sell or dispose of such free negro, or free negroes, or persons of mixed blood, or appropriate the same to his, her, or their own use, and being thereof legally convicted, shall for every such offence be fined not less than fifty pounds, nor more than five hundred pounds, and imprisoned not less than three months, nor more than eighteen months, any thing in the before recited act notwithstanding.

Penalty on stealing or selling free negroes &c.

CHAP. 563.

An act to empower the several courts of pleas and quarter sessions within this state, to remove from office their clerks for neglect or misbehaviour.

Whereas doubts are entertained whether the courts of pleas and quarter sessions within this state have the power to remove their clerks from office for neglect or misbehaviour :

Clerks of courts on indictment, for neglect of duty, may be removed, and others elected, provided a majority of the justices be present.

1. *Be it therefore enacted, &c.* That the said courts of pleas and quarter sessions shall have full power and authority, on their respective clerks being convicted or found guilty, in the courts aforesaid, on a bill of indictment for neglect of duty or misdemeanor in office, to remove such clerk, and proceed to the election of another, provided a majority of the justices of the county are present at the election of such clerk, and the person so elected shall be subject to the same rules, regulations and restrictions, as clerks are and have been, any law to the contrary notwithstanding.

Records to be delivered up to the successor.

2. *And be it further enacted,* That upon the resignation or removal of any clerk from office as aforesaid, he is hereby required to transfer and deliver up to his successor in office, all records, documents and papers, relative to his said office, under the penalty of five hundred pounds, to be recovered by action of debt in the name of the governor, and applied to the use of the state.

CHAP. 564.

An act to prevent the selling of spirituous liquors and other articles at church or meeting-house yards on days of divine worship.

Whereas a custom prevails in some parts of this state of selling spirituous liquors and other articles at places where people are assembled for divine worship: For preventing such practices in future,

Spirituous liquors not to be sold in church or meeting-house yards.

1. *Be it enacted, &c.* That it shall not be lawful for any person, who is settled at or near to any church or meeting-house yard in this state, to sell spirituous liquors to persons assembled for divine service; or if

any other person shall bring to any church or meeting house yard, (a) on days fixed upon for divine worship, and shall there attempt to sell or give away, on such days as aforesaid, any spirituous liquors or other articles, or shall erect any booth, harbour, or make a stand adjacent thereto, for the purpose of selling or giving away spirituous liquors and other articles, on such days as aforesaid, each and every person so offending shall forfeit and pay the sum of five pounds, recoverable before any justice of the peace of the county where such offence shall be committed, and applied to the use of the poor of such county; and upon information of such offence being committed being made to a justice of the peace in his county, he shall issue his warrant against such offender, and have him or her apprehended and brought to justice. *Provided*, any person thinking himself aggrieved by the decision of a justice of the peace on such trial, may appeal to the succeeding county court; and in all such cases, it shall be the duty of the county attorney to appear and prosecute on behalf of the state.

(a Extended by
1808, c. 761,
1807, c. 729.)

Penalty.

Appeals may be
made.

2. *And be it further enacted*, That this act is not intended to operate or take effect before the hour of ten in the forenoon, and after the hour of four in the afternoon, where a church or meeting-house is situated within the limits of any town within this state, nor shall any recovery be had in pursuance of this act, unless information shall be made of the offence within ten days after it is committed.

This act not to
take effect be-
fore 10 o'clock
in the forenoon,
nor after 4 in
the afternoon.

CHAP. 565.

An act to amend sundry acts for the better regulating the pilotage in the several ports of this state.

Whereas sundry persons after having obtained certificates to act as pilots in the different ports of this state have proved unworthy of the trust reposed in them:

Be it enacted, &c. That from and after the passing of this act, the commissioners of navigation, or a majority of them, in their respective ports of this state, upon complaint being made to their satisfaction of the improper conduct of any pilot acting under their authority, they shall have full power to disqualify such pilot

Pilots to be dis-
qualified for im-
proper conduct.

(a See 1796, c.
470, 1797, c.
486.)

from piloting thereafter: And should such pilot, after such disqualification attempt to take charge of any vessel, he shall be subject to the penalty of one hundred pounds, to be recovered in the same manner as if he had never obtained license, for so doing. *Provided nevertheless,* That nothing contained in the foregoing act shall affect or alter any act heretofore made for the regulation of the navigation or pilotage of Cape-Fear river.(a)

CHAP. 566.

An act authorising and empowering the secretary of state to transcribe certain old books in his office, and to demand and obtain from individuals other books belonging to the state.

Secretary to
transcribe cer-
tain old books.

1. *Be it enacted, &c.* That the secretary of state be, and he is hereby authorised and empowered to transcribe and copy, or cause to be transcribed and copied, in well bound books, thirteen old books in his office, containing records of grants and patents commencing with the year 1663, and ending with the year 1767.

The originals to
be deposited in
the archives of
the state.

2. *And be it further enacted,* That when the secretary of state shall have thus transcribed and copied the said books, he shall carefully examine and compare the transcripts or copies with the original records, and upon ascertaining the fidelity and correctness of said copies, he shall carefully pack up in a close chest or trunk, to be procured for that purpose, the original books, and deposit the same among the archives of the state; and a copy of any grant taken from the said transcripts shall and may be given in evidence in all cases in the same manner as if it had been taken from the original books.

Copies may be
given in evi-
dence.

Secretary to
make applica-
tion for books
belonging to his
office.

3. *And be it further enacted,* That the secretary of state be, and he is hereby authorised and required, whenever he shall receive information of any books being in the possession of clerks of courts, or of any other persons, that belong of right to his office, to make application therefor, and upon receipt thereof, to give his certificate for the same; and any person or persons who shall refuse, on application made to him, her or them by the secretary of state, to deliver and give up any book or books in his, her or their possession, which

belong of right to the office of the secretary of state, shall be liable to and forfeit the penalty of three hundred pounds, to be recovered in an action of debt, in the name of the governor of the state for the time being, and his successors in office, and it shall be the duty of the attorney and solicitor-general to attend to and prosecute such suit.

Penalty for refusing to give them up.

4. *And be it further enacted*, That the secretary of state shall be allowed a reasonable compensation for his services in obtaining, or endeavouring to obtain such books as aforesaid, in the possession of clerks or other persons, to be fixed by the General Assembly, and that he be allowed for the transcribing, examining, and comparing the books which by this act he is authorised to transcribe, the sum of one shilling for each and every grant or patent so transcribed, examined and compared; his accounts for such last mentioned services to be exhibited half-yearly to the comptroller, on whose certificate the governor is hereby directed to grant him a warrant on the treasury at the rate aforesaid.

Allowances for the above services.

CHAP. 567.

An act to secure to the persons therein mentioned such estate as they may hereafter acquire.

3.(a) *And be it further enacted*, That in all cases where the wife of any person is secured in such property as she may hereafter acquire, and the children born since the marriage of the said parties, and not remaining with the father, shall be considered as orphan children, and shall, by the county court of pleas and quarter-sessions, be bound to some respectable person, whereby they may be raised in habits of industry and morality. *Provided always*, the court may, at their discretion, continue such child or children with the mother, if it appears that the said child or children are properly taken care of by the mother, any law, usage or custom to the contrary notwithstanding.

(a The other 2 sections are of a private nature.)

Where the wife is secured in her property, the children not remaining with the father, to be bound out.

Read three times and ratified in General Assembly, }
the 20th day of December, Anno Dom. 1800. }

JOSEPH RIDDICK, S. S.

STEPHEN CABARRUS, S. H. C.

Copy.—WILL. WHITE, Secretary.

Benjamin Williams, Esq. governor.

At a General Assembly, begun and held at Raleigh, on the sixteenth day of November, in the year of our Lord one thousand eight hundred and one, and in the twenty-sixth year of the independence of the said state.

CHAP. 568.

(See 1799, c. 519, 1802, c. 610.)

An act for purchasing up the principal of the certificate debt of North-Carolina.

Treasurer to purchase principal.

Time limited.

Exceptions.

At 15s. the pound.

To grant a certificate for the interest.

Limit to purchases,

Certificates for interest not to bear interest.

1. *Be it enacted, &c.* That it shall and may be lawful for the public treasurer for the time being, and he is hereby authorised, to purchase in for the use and benefit of the people of this state, after the first day of April next, the principal of all the certificates heretofore issued agreeably to the acts, and under the authority of the legislature of North-Carolina, which shall be presented to him, on or before the first day of October next; those issued at Warrenton in the year one thousand seven hundred and eighty-six, those issued for services in the western country, and commonly called Chickamaga certificates, and, in fine all, those at present not receivable at the treasury office, excepted; paying and giving for each pound of the principal of the certificates, which shall be presented to him and purchased as aforesaid, not more than the sum of fifteen shillings, and granting to the vendor or holder, a certificate or certificates for the interest which shall have accrued thereon up to the day of sale; which certificates so to be granted as aforesaid for interest, shall pass at the treasury in payment of lands entered, and shall be in all respects of the same value with the interest on certificates previous to the purchasing in the principal as aforesaid: *Provided nevertheless,* That if certificates of the description above mentioned shall be presented for sale, to such unexpected amount as shall exceed the sum of fifteen thousand pounds, and shall, in the opinion of the treasurer, too nearly exhaust the public chest, then, and in such case, he shall be, and hereby is vested with discretionary power to purchase from each of the vendors or holders, in such proportion as in his opinion shall best tend to do equal justice to all.

2. *And be it further enacted,* That such certificates as the treasurer may issue for the interest on the principal of certificates, as by this act directed, shall not bear any interest, and that the treasurer insert the same on the face thereof.

CHAP. 569.

An act to amend the several land laws in this state.

Whereas by an act of the General Assembly of this state, passed in the year one thousand seven hundred and ninety-seven, (a) all lands entered previous to the first day of January, one thousand seven hundred and ninety-eight, that may have been paid for as by law directed, and not surveyed and returned to the secretary's office by the first day of January, one thousand eight hundred and two, are declared null and void, which, in many instances, will tend to the great injury of many of the good citizens of this state: For remedy whereof,

(a See 1797, c. 483, s. 1.)

1. *Be it enacted, &c.* That all bona fide entries of lands made in this state, previous to the first day of January, one thousand seven hundred and ninety-eight, which have been paid for, shall have until the first day of December, one thousand eight hundred and two (b) to have said lands surveyed and returned into the secretary's office; and all such lands not surveyed and returned into the secretary's office by the day aforesaid, shall become void, and is hereby declared lapsed lands to the state, and may be thereafter entered by any person, as other vacant and unappropriated lands in this state.

Time for lands to be surveyed and entered.

(b See 1802, c. 611. Further time given.)

2. *And be it further enacted,* That all such lands so surveyed and returned into the secretary's office, the claimants thereof shall cause the same to be perfected into grants, before the first day of January, one thousand eight hundred and four, (c) otherwise the same shall become null and void, and are hereby declared to be lapsed lands to the state, and may be entered again as other vacant and unappropriated lands in this state.

If not perfected to lapse.

(c See 1803, c. 634, s. 1, 1799, c. 525, s. 1.)

And whereas many persons in this state enter vacant lands, and work the timber off the same, to their advantage, and never pay the purchase money into the treasury of the state, and then let the same lapse: For remedy of such abuses in future,

Taking off timber.

3. *Be it enacted,* That from and after the passing of this act, that where any person hath entered, or shall hereafter enter any vacant lands in this state, and shall in any manner or way attempt to make use of any of the timber or growth on said lands, by himself or any other person for him, or by his permission, before he actually pays the purchase money into the treasury of

Forfeiture on persons using timber from off land.

the state for the same, such claimant or enterer shall forfeit and pay the sum of twenty pounds for every hundred acres so by him entered, and shall further forfeit all his right of entry to said land, and his entry shall become null and void, and any other person shall and may enter the same as other vacant and unappropriated lands in this state; and such last enterer shall and may have right to all and every advantage of the premises when by him entered and the purchase money paid: *Provided*, nothing herein shall be construed to affect any entry of land made and settled on for the purpose of improvement by agriculture.

For making tar,
&c. forfeit 20l.

4. *And be it further enacted*, That every person who shall make use of the state's land, by making therefrom or thereon tar, turpentine, shingles, staves, or cutting the timber off the same, before he shall have entered and paid for the same, every such person so offending, shall be liable to a fine of twenty pounds for each hundred acres by him or them entered, to be recovered in the county courts where such offence shall be committed. And it is hereby declared to be the duty of the county or state's attorney, acting for said county, on information to him made, to bring suit for the recovery of said forfeiture for the use of the state.

(See 1800, c.
550.)

5. And whereas it may so happen, that some persons who have made entries of land in the year one thousand eight hundred, may not have it in their power to pay the purchase money into the treasury of this state by the first day of January, one thousand eight hundred and two, and thereby be injured by their entries lapsing: For relief of such persons,

Extension of
time for pay-
ment of pur-
chase money.

(a See 1892, c.
612, s. 1. Time
extended to
1893.)

6. *Be it enacted*, That all claimants of entries of land made in the year one thousand eight hundred, who shall not have paid for the same before the expiration of the present year, shall have until the first day of December, one thousand eight hundred and two, (a) to pay the purchase money into the treasury for the same; and all entries so paid for, are declared to be as good and valid in law, as if the same had been paid for in this present year. And the said enterers shall, within two years after the said first day of December, one thousand eight hundred and two, perfect their entries by grant; and all entries not perfected by grant within the time aforesaid, shall be deemed lapsed, and shall revert to the state.

7. *And be it further enacted*, That all suspensions of grants that have been granted, or shall hereafter be granted, by the governor of the state, the person at whose instance such suspension may be granted, shall cause the same to be docketed in the court of the county where such land so suspended lies, within six months after the granting such suspension; and on failure thereof, the said suspension is hereby declared void; and the claimant of such suspended grant, on producing to the secretary the clerk's certificate that said suspension hath not been carried into effect, agreeable to the requisites of this act, the secretary shall thereupon make out to such claimant a grant for the land so suspended.

Suspension of grants.

(See 1783, c. 185, s. 19.)

CHAP. 570.

An act to fix an uniform time for taking the list of taxable property throughout the state, and for the enforcing the collection of taxes.

1. *Be it enacted, &c.* That from and after the passing of this act, the last twenty working days in July in every year, be and the same are hereby established as the time when the list of taxable property shall be taken in every county in the state.

Time for taking the list.

2. *And be it further enacted*, That at the respective courts of pleas and quarter-sessions in each county, which shall first happen after the first day of April in every year, the justices for taking the lists of taxable property shall be appointed, and the clerks of the several courts aforesaid, shall give notice thereof, with a list of the names of said justices and of the districts for which they were appointed, in the course of the term in which such appointments are made, by advertising the same at the court-house. *And be it further enacted*, That the clerk shall issue notices of such appointments to the sheriff of the county, who shall serve the same within ten days on the justices so appointed, and it is hereby declared that it shall be the duty of the justices so appointed to advertise in the district, at three different places, for which he is appointed, at least ten days before the days herein established for giving in the lists of taxables, the place whereat he will attend to receive the same; and if any justice of the peace so appointed,

Justices appointed for taking lists.

Duty of clerk, sheriff and justices.

(See 1819, c. 999.)

What to be
done, when jus-
tices incapable,
&c.

Persons about
to remove.

shall become incapable, die, or remove out of the county before the duties of his appointment shall be performed, then any three other justices of the county (on notice of such death, incapability or removal being given them in writing by the sheriff,) may, and they are hereby authorised and required to appoint some other justice of the peace to perform the duties of the person so becoming incapable, dying, or removing out of the county.

3. *And be it further enacted*, That whenever the sheriff of any county shall have reason to suspect, that any person whose name may be on the list of taxable property returned as aforesaid, by the justice appointed to take the list, is about to remove him or herself, or property, out of the county, to avoid the payment of taxes, the sheriff shall have power to proceed to levy and collect the tax due from such person immediately, any law to the contrary notwithstanding: *Provided*, such sheriff shall first make oath before some justice of his county, that he has just reason to believe such person is about to remove him or herself, or property, out of the county, before the time of the payment of his or her taxes shall arrive, and obtain a certificate from such justice to that effect.(a)

CHAP. 571.

An act directing the manner in which the confiscated lands shall in future be disposed of.

(Obsolete.)

Commissioners
to be appointed.

Their duty.

1. *Be it enacted, &c.* That from and after the passing of this act, it shall be the duty of the judges of the superior courts of law and equity in this state, at the first courts they shall attend, to appoint some proper person in each district in this state, commissioner of confiscated lands, whose duty it shall be immediately to search for, demand and receive, all confiscated lands, and sell at public sale all that have not been legally sold by the trustees of the university, or former commission-

(a The act of 1814, c. 872, having changed the mode of laying the tax on lands, and the manner of enforcing the collection, supersedes the necessity of retaining the residue of this act. And the act of 1819, c. 999, having impliedly repealed the previous acts from 1814, and being more perfect in its details, is also retained.)

ers; and if any person or persons holding any confiscated lands, shall refuse to give up the same, the commissioners appointed as aforesaid, are hereby vested with full power and authority to sue for and recover the same, under the direction of one of the law officers of the state, in any court having cognizance thereof, for the use of the state, as herein after directed.

2. *And be it further enacted*, That the said commissioners, when so appointed, shall, before they enter on the duties of their office, give bond with approved security to the court, in such sum as the court shall direct, for the faithful discharge of their duty, and shall take the following oath, or affirmation, viz: "I, A. B. commissioner of confiscated lands for the district of , do solemnly and sincerely swear (or affirm) that, as commissioner of said district, I will discharge my duty to the best of my knowledge and ability: So help me God."

To give bond.

Their oath.

3. *And be it further enacted*, That it shall be the duty of said commissioners to account with the public treasurer annually, for monies by them collected in consequence of their appointment, in the same manner and under the same rules, regulations and restrictions as sheriffs of this state are bound by law to do, and shall be liable to the same fines and forfeitures as sheriffs are.

To account with the treasurer:

4. *And be it further enacted*, That the said commissioners shall be allowed ten per cent. on all monies by them collected and paid into the public treasury, to be allowed and paid by the treasurer on settlement of their accounts, who shall be allowed the same in settlement of his accounts. And if any commissioner, appointed as aforesaid, shall refuse to act, die, or remove out of the district for which he was appointed, it shall be the duty of the judge attending the succeeding court of said district where such vacancy shall have happened, to appoint another in the same manner as the first.

Their allowance, &c.

CHAP. 572.

An act to prescribe the punishment for forgery, in certain cases.

1. *Be it enacted, &c.* That from and after the first day of April next, if any person or persons, of their

Writings described.

own head and imagination, or by false conspiracy or fraud with others, shall wittingly and falsely forge or make, or shall cause or wittingly assent to be forged or made, or shall shew forth in evidence knowing the same to be forged, any deed, lease or will, or any bond, writing obligatory, bill of exchange, promissory note, endorsement or assignment thereof, or any acquittance or receipt for money or goods, or any receipt or release for any bond, note, bill, or any other security for the payment of money, or any order for the payment of money or delivery of goods, with intent, in either or any of the said instances, to defraud any person or corporation, and shall thereof be convicted, in any of the superior courts of law in this state, such person so offending shall, for the first offence, be adjudged to stand in the pillory one hour, and receive thirty-nine lashes on his bare back, and be imprisoned not less than six months, and fined at the discretion of the court; and for the second offence, shall, on conviction, suffer death without benefit of clergy.

Punishment for first offence.

For second.

And whereas doubts have arisen whether an act passed in the fifth year of the reign of Elizabeth, entitled "An act against forgers of false deeds and writings," is now in force,

Act 5th Eliz. declared not to be in force.

2. *Be it enacted*, That the said act, and every part thereof, is hereby declared to be of no force or effect within this state.

All other acts repealed.

3. *And be it further enacted*, That all acts and clauses of acts coming within the meaning and purview of this act, and contrary to the intent and meaning thereof, are hereby repealed and made void.

CHAP. 573.

An act to authorise the trustees of the University to raise money by way of lottery.

Not to exceed 2000l. a year.

1. *Be it enacted, &c.* That from and after the passing of this act, the board of trustees of the University of North-Carolina, shall be, and it is hereby declared to be vested with full power and authority to raise annually, by one or more lottery or lotteries, a sum of money not exceeding two thousand pounds, by such scheme or schemes as the said board shall and may from time to time establish.

2. *And be it further enacted*, That the said board shall have, and it is hereby declared to have, full power to appoint, from time to time, commissioners to manage such lottery or lotteries as shall be established, and to make such rules and regulations, either respecting the sale of tickets, or the payment of prizes, or for any other purpose necessary to carry into effect such scheme or schemes as may be established, as the said board from time to time shall deem proper and necessary, any law, usage or custom to the contrary notwithstanding.

Power to appoint commissioners.

CHAP. 574.

An act to amend an act passed at Hillsborough, in the year one thousand seven hundred and eighty-two, (a) for establishing courts of equity, and to regulate the proceedings in appeals from the several courts of pleas and quarter sessions, to the superior courts of law. (a C. 177.)

Whereas the present method of reviving suits in equity, where any of the parties thereto have died since their commencement, by bill of revivor, is productive of delay, inconvenience and unnecessary expense to suitors: For remedy whereof,

Preamble.

1. *Be it enacted, &c.* That where the defendant or defendants, in any cause now depending, or hereafter to depend, in any of the courts of equity within this state, shall die after the service of a copy of the complainant's bill and subpoena, that it shall and may be lawful, on suggesting the death of such defendant or defendants, to issue a scire facias against the legal representatives of such deceased person or persons, in the same manner and under the same rules, regulations and restrictions, as are used in suits at common law, and service of such writ on the legal representatives, shall be as effectual and valid to revive and carry on such suit, as if a bill of revivor had been filed against them, and they served with a copy thereof.

On death of defendant in equity, suit to be revived by sci. fa. against the representatives.

2. *And be it further enacted*, That whenever a party complainant in any suit in equity shall die after filing of the bill, it shall and may be lawful for the legal representatives of such deceased person to carry on such suit; *Provided*, application to that effect be made by such representatives to the court in which such suit may depend, at or before the second term after the decease of such party, and not thereafter.

On death of plaintiff, his legal representatives to carry on suit,

What papers
may be enroll-
ed.

3. *And be it further enacted.* That in future, no bill, answer, or other paper or proceeding, in any suit in any court of equity in this state (interlocutory decrees excepted,) shall be enrolled, until the cause is finally decreed on, and then only upon motion by the party to take benefit by such decree; and the court shall have power and are hereby directed to adjudge and determine what papers shall and may be enrolled in any suit, on motion as aforesaid.

Appeals from
county courts.

(a See 1807,
c. 713.)

Costs of appeals
how to be paid.
&c.

And whereas plaintiffs in suits brought in the courts of pleas and quarter-sessions, frequently appeal to the superior courts of law for the purpose of harrassing and oppressing the defendants, by an accumulation of costs and expenses: (a) For remedy whereof,

(See 1807, c.
713.)

4. *Be it enacted, &c.* That whenever any plaintiff shall appeal from the judgment of any court of pleas and quarter-sessions in this state to the superior court of law for the district in which such county may be, and shall not recover more in such superior court than he, she or they did in the county court, he, she or they so appealing, shall not recover their costs which may accrue on such appeal, but may, at the discretion of the superior court before which such appeal shall be tried, be adjudged and made liable to pay the costs thereof. And where a defendant or defendants in any action of debt, covenant or assumpsit, shall appeal from the judgment of any court of pleas and quarter-sessions to the superior court of law, and shall not, on the trial of such appeal, diminish the sum recovered by the plaintiff in the county court, the party so appealing shall be compelled to pay to the plaintiff the sum of ten per cent. to be computed from the time of rendering judgment in the county court to the time of entering up judgment in the superior court, and the lawful rate per cent. from that time, till the whole debt shall be fully paid and satisfied.

What interest
the appellants to
pay.

CHAP. 575.

An act to direct the descent of real estates, in certain cases.

(See 1784,
c. 204—1784,
c. 225—1808,
c. 739.)
Preamble.

Whereas it is contrary to the true policy of this government, that lands should escheat to the state through failure of blood, where any relations of the ancestor

exist, who in any case might, or in justice ought, to inherit the estate :

1. *Be it enacted, &c.* That where any person shall die seised of real estate of inheritance in this state, leaving no person who can claim as heir to him, but leaving a widow, that the widow in such case shall be esteemed as heir to her husband, and inherit his estate as such. Where no heir, widow to be heir.

2. *And be it further enacted,* That where any person shall die seised of real estate of inheritance in this state, leaving descendants or other relations, citizens of the United States, who would according to law inherit, were all other nearer descendants or relations extinct, but who, according to the now existing laws, cannot inherit, because there may be others who, if citizens, would be entitled to inherit, but being aliens, cannot hold lands in this state, whereby such estate would escheat; in such case, the nearest descendant or relation of the deceased, being a citizen of the United States, shall inherit. Descent where aliens are concerned.

3. *And be it further enacted.* That this act shall have operation upon all estates which at present would be liable to escheat, which have not been reduced into actual possession by the state, or those claiming under it, in right of escheat, any law to the contrary notwithstanding. Its operation.

CHAP. 576.

An act to continue longer in force, and to amend an act passed in the year one thousand seven hundred and ninety-nine, entitled "An act directing the judges of the superior courts to meet together to settle questions of law or equity arising on the circuit, and to provide for the trial of all persons concerned in certain frauds." (a) (a See 1799, c. 520, 1804, c. 660, 1805, c. 674, 1806, c. 693, 1808, c. 742, 1810, c. 785, 1811, c. 808, 1812, c. 829, 1813, c. 851, 1818, c. 962 and 963.)

Whereas the afore-recited act, in its provisions directing the judges of the superior courts to meet together for the purpose of determining all questions of law or equity arising and remaining undetermined upon the circuit, has been found highly salutary and beneficial; and whereas the time of limitation of said act is soon to expire, and it appears to this General Assembly necessary that the same should be continued longer in force :

1. *Be it therefore enacted, &c.* That the said act, so far as it regards the meeting together of the said judges for the purposes aforesaid, be, and the same is hereby con- Preamble.
Continued for three years.

tinued in force for three years longer ; and the said meeting of the judges shall be known by the name and style of “The Court of Conference ;” and the same shall be and continue for the time last aforesaid, under the same rules, regulations and restrictions, as are provided in and by the said recited act, except as is otherwise provided in this act.

Records to be
searched.

2. *And be it further enacted*, That it shall be the duty of the clerk of the said court to permit any persons to search the records of his office, and give and make out copies of the same, to any person applying, for which he shall be entitled to the same fees as the clerks of the superior courts of this state ; and on failure or refusal, the aforesaid clerk shall be liable to the same penalties as are in such cases prescribed for the clerks of the superior courts.

CHAP. 577.

(a See 1784, c.
223, s. 10.)

• An act to amend an act, entitled “An act to regulate and ascertain the several officers’ fees therein mentioned, and for altering the time of holding the superior courts of law and equity for the district therein mentioned,” passed at Newbern, in the year one thousand seven hundred and eighty-four.(a)

Preamble.

Whereas the said act does not authorise the succeeding sheriffs to execute and perfect deeds of bargain and sale for lands sold for taxes by their predecessors.

Sheriffs’ successors in office to execute deeds, &c.

Be it therefore enacted, &c. That where any sheriff has sold, or shall hereafter sell lands for the taxes due thereon, agreeable to law, and who has died, or may die or remove, or be out of office, before a deed or deeds have been executed for the same, that it shall be lawful for their successors in office to make and execute a deed or deeds to the person or persons purchasing the same, if it shall appear the sale was bona fide made : *Provided always*, that before any deed or deeds shall be executed by the sheriff to the person or persons so claiming as purchasers of the land aforesaid, shall produce to the court of the county in which such lands may lie, the receipt of the deceased sheriff for the purchase money, and shall also produce such other testimony to shew that they had well and truly purchased and paid for the said lands, as may by the said court be deemed satisfactory ; and shall also make it appear that they have surveyed

On producing
certain proofs.

the same, and registered a plat thereof, agreeably to the act of Assembly in such case made and provided, and also that they have paid the lawful taxes on said lands : On which proof, the said court may issue an order directing the sheriff to make and execute titles for the same ; and all deeds made and executed contrary to the provisions of this act, shall be and are hereby declared to be null and void.

CHAP. 578.

An act to amend an act, entitled, "An act to amend the several acts of Assembly now in force in this state, which respect the entering and obtaining titles for lands," passed in the year one thousand seven hundred and ninety-eight.

Be it enacted, &c. That the third section of said law, declaring that henceforward no duplicate warrant for lands shall be issued, but on application by petition to the General Assembly, be, and the same is hereby repealed : And that in future, the third section of an act of the General Assembly, passed in the year one thousand seven hundred and ninety-six, entitled, "An act to remedy certain inconveniences arising under the present laws," be established as the only and legal mode to obtain duplicate land warrants : *Provided*, That seven acting justices shall be present in court at the time such duplicate warrant may be obtained.

3d section act of 1798, c. 493, repealed.

And 3d section of act of 1796, c. 455, in force.

Seven justices to be present.

CHAP. 579.

An act to repeal the fourth section of an act of the last General Assembly, entitled, "An act to amend an act, entitled, An act to perfect the titles of the officers and soldiers of the continental line of this state, and of claimants under entries made in the office of John Armstrong, and other purposes therein mentioned."

Be it enacted, &c. That the fourth section of the above recited act be, and the same is hereby repealed and made void.

2. *And be it further enacted*, That all claims for lands by the officers and soldiers of the continental line of this state, during the revolutionary war with Great-Britain, and all demands for the same, which shall not be ap-

4th section of 1800, c. 556, repealed.

Claims for military land warrants, when barred.

plied for and received, either by the person who performed the service, his heirs or assigns, before the first day of January, one thousand eight hundred and three, shall be forever thereafter barred; and no military land warrant shall issue after the time aforesaid on any account whatever, any law, usage or custom to the contrary notwithstanding.(a)

(a See 1819, c. 992.)

CHAP. 580.

An act to amend an act, entitled, "An act directing the method of electing members of the General Assembly, and other purposes," passed in the year one thousand seven hundred and seventy-seven.(b)

(b 1777, c. 116.)

12th sec. of the recited act repealed.

Oaths taken by members of Assembly.

Causes of expulsion.

Forfeiture for treating.

Be it enacted, &c. That the twelfth section of said act be and is hereby repealed.

2. *Be it further enacted,* That every person elected a member of the General Assembly, shall, before taking his seat therein, take the oath of allegiance appointed for the qualification of members of the General Assembly and public officers, and also the oath to support the constitution of the United States. And if any person elected a member of the General Assembly shall, by himself or any other person, directly or indirectly, give, or cause to be given, any gift, gratuity, reward or present whatsoever; or give, or cause to be given, by himself or any other person, any treat or entertainment, either by himself or any other person for him, of meat or drink, at any public meeting or collection of the people, to any person or persons whatever, for his or their vote or votes, or to influence him or them in his election, every person violating this act, shall, on due proof thereof, be expelled from his seat in the General Assembly.

3. *Be it further enacted,* That if any person or persons shall treat with either meat or drink, on any day of election, or any day previous thereto, with an intent to influence the election, every person so offending shall forfeit and pay the sum of one hundred pounds, the one-half for the use of the county where the same shall be recovered, to be paid to the county trustee; the other half to the use of the person who shall sue for the same: to be recovered by action of debt in any court of record having cognizance thereof, with costs.

4. *And be it further enacted*, That it shall be the duty of the sheriffs, in each and every county in this state, annually to publish this act, by advertising and reading the same at the court-house door, on the first and second days of the county court, which shall happen previous to the annual election, and also on the different days of election, under the penalty of twenty pounds for each and every neglect.

Sheriffs to publish this act.

CHAP. 581.

An act to amend the several acts of the General Assembly of this state to prevent excessive gaming.(a)

(a See 1800, c. 552—1799, c. 526.)

Whereas the aforesaid acts have not had the effect thereby intended: Therefore,

Be it enacted, &c. That from and after the passing of this act, if any tavern-keeper, ordinary-keeper, or keeper of a house of entertainment, shall suffer any of the games mentioned in the aforesaid acts to be played in his or her dwelling-house, or any out-house, or on any part of the premises whereon he or she lives; or shall furnish such persons with drink, or any thing for their comfort and subsistence during their time of playing, he or she shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined a sum not less than five pounds. And every person playing at any of the said games, in manner above described, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined a sum not less than five pounds.

Tavern-keepers suffering gambling, &c. guilty of a misdemeanor.

The persons gambling, &c. guilty also of a misdemeanor.

CHAP. 582.

An act to amend an act for the more regular collecting, payment of, and accounting for the public tax, passed in the year 1784.(b)

(b See 1784, c. 219, s. 11—1819, c. 1010.)

Be it enacted, &c. That the treasurer, within thirty days after his annual election, shall give bond and security, payable to the governor, sufficient to secure the amount which shall then be in the treasury, together with the probable receipts for the year for which he shall be elected; which bond shall be conditioned for his faithfully accounting for the public money of the

Treasurer to give bond.

state, and for his performing the several duties appertaining to the office of public treasurer.

To be filed, &c. 2. *And be it further enacted*, That the bond so given, together with a certificate that the said treasurer has taken the oath of office prescribed by law, shall be filed in the office of the comptroller, on which suit may be brought and judgment had, in the same manner and under the same rules and regulations as have been, or shall be prescribed for entering up judgments against the several sheriffs of this state.

CHAP. 583.

(a See 1762,
c. 69—1796,
c. 468.)

An act to amend the nineteenth section of an act, entitled "An act for the better care of orphans, and security and management of their estates." (a)

Preamble.

Whereas great abuses frequently happen to children of colour who are bound by the county courts, by the master or mistress removing from the county where such children are bound, or by taking them to some distant place, and there selling them to some person to serve the remainder of their time, or as slaves; and such child or children having no friend to apply to in their behalf for justice to be done them, they are often held or disposed of as slaves: To prevent such evil and pernicious practices in future, therefore,

When any child of colour is bound out, the master is to give bond not to remove him out of the county, &c.

1. *Be it enacted, &c.* That when any county court in this state shall bind any orphan, or base born child of colour, they shall be authorised and directed to take bond, with sufficient security, in the sum of two hundred and fifty pounds, from the master or mistress, that they shall not remove such child out of the county where he or she was bound, and to produce him or her before such court, at any time when the said court may require it, and also to produce such person at the expiration of the time of his or her service; and on failure thereof, the chairman of the court shall and he is hereby required to bring suit against such persons on said bond, for the benefit and use of the person bound to serve as aforesaid.

Courts to call on master for security.

2. *And be it further enacted*, That the several county courts in this state are hereby authorised and required to call on all masters and mistresses to whom any per-

sons of colour hath heretofore been bound by the said court, whose time of service is not expired, to give sufficient security, in the sum of two hundred and fifty pounds, to produce such person or apprentice before them, and not to remove him or her out of said county; and on failure thereof, the chairman of said court is hereby required and directed to commence suit for the recovery thereof, for the use and benefit of the person so bound to service.

3. *And be it further enacted*, That if any person to whom any child of colour hath heretofore been bound, and whose time of service is not expired, shall fail, refuse or neglect, on notice from the court to appear and give security as aforesaid, it shall be the duty of the court, and they are hereby required to bind such person of colour to some proper person until he or she shall arrive to full age; any law, usage or custom to the contrary notwithstanding: *Provided nevertheless*, That nothing in this act contained shall subject any seafaring person to the penalties herein mentioned to whom any person shall be bound in pursuance of this act, if he can make it appear that the person so bound to him died on a voyage, without the limits of the county, or deserted from his service, so that he could not again procure him for the purpose of complying with the condition of the bond.

Persons failing to appear, &c.

Not to extend to certain cases.

CHAP. 584.

An act to compel persons who are permitted to have their slaves liberated, (a) to give bond and security for keeping such slaves from becoming a public or county charge, and other purposes. (a See 1777, c. 109, s. 2—1796, c. 453.)

Whereas it has been represented to this General Assembly, it frequently happens that slaves or negroes emancipated by their owners, become a county charge: For remedy whereof, Preamble.

Be it enacted, &c. That from and after the passing of this act, all persons who are permitted to liberate their slaves or negroes, either by an act of the General Assembly, or by the county courts within this state, it shall be their express duty to enter into bond in the sum of one hundred pounds for each slave so liberated, with approved security; which bond shall be made payable Persons liberating slaves to give bond, &c.

Penalty for failing to give bond, &c.

Of persons about to remove and leave slaves who are likely to become a county charge.

Power of the wardens of the poor.

to the chairman of the court and his successors, for the use of the poor of the county in which the slave or negro may reside, that such slave or negro shall not become chargeable on the parish or county, previous to his having the same effected ; and every person or persons who shall fail for six months after the said slave or slaves shall be so set free, to enter into bond and security as above directed, shall forfeit and pay the sum of three hundred pounds to the wardens of the poor of the county, for the benefit of the poor of the county in which such slave or slaves shall be so liberated, to be recovered by an action of debt in any court having cognizance of the same.

2. *And be it further enacted*, That the wardens of the poor in the several counties in this state, or any one of them, shall have power and authority, on application to them made, that any person or persons are about to remove themselves out of the county, and have any slave or slaves that are likely to become a county charge, to issue their or his warrant to bring such person or persons before him or them, and take such security by bond as may be deemed sufficient to indemnify the parish or county ; which bond shall be made payable to the chairman of the county court and his successors. And in case such person or persons shall refuse to give bond as is herein directed, he shall have power and authority to commit the said person or persons, and keep him or them committed until he or they shall enter into such bonds, or remove the slave or slaves so about to be left, without the limits of the county, any law, usage or custom to the contrary notwithstanding.

CHAP. 585.

An act to amend an act, entitled, "An act to amend an act, entitled, An act to prevent thefts and robberies by slaves, free negroes or mulattoes, and to amend an act, entitled An act to prevent the wilful and malicious killing of slaves."(a)

(a See 1791, c. 335, s. 3—1817, c. 949.)

Preamble.

Whereas doubts have arisen under the construction of the third section of the above recited act, whether persons can be convicted and properly punished : For remedy whereof,

Be it enacted, &c. That if any person shall hereafter be guilty of feloniously, wilfully and maliciously killing any slave, such offender, upon conviction thereof, on being arraigned stands mute, or challenge peremptorily more than thirty-five jurors, shall suffer death without benefit of clergy. Punishment for killing a slave.

CHAP. 586.

An act to continue in force for a longer time, an act, entitled "An act for the relief of non-commissioned officers and soldiers of the continental line and militia of this state, who have been disabled in the service of the United States or of this state, during the late war, and who are not placed on the pension list of the United States, and are barred by the act of limitation passed in the year one thousand seven hundred and ninety-nine.(a)" (a See 1799, c. 523.)

Whereas it is represented to this General Assembly, that some of the persons who came within the description and meaning of the above recited act, have, from want of due knowledge thereof, failed to make application for the purpose of being put on the pension list as therein prescribed: For remedy whereof, Preamble.

Be it enacted, &c. That the said above recited act be, and the same is hereby continued in force for the term of one year, from the rising of the present General Assembly; and that all such persons as shall, within the said term, obtain from any of the judges of the superior courts, a certificate as is directed and required by the said act, shall be entitled to receive the same allowance as he would have been entitled to receive had he so applied and obtained such certificate within the time limited by the said act. Act of 1799, c. 530, continued for one year.

CHAP. 587.

An act to alter the mode of appropriating (b) certain fines, forfeitures and amercements. (b See 1777, c. 115, s. 84, and 1809, c. 769.)

1. *Be it enacted, &c.* That from and after the passing of this act, all fines, forfeitures or amercements, which shall or may accrue or be imposed in any of the courts of pleas and quarter sessions within this state, shall, by Fines, &c. to be paid to the county trustees.

(a Clerks how to account to county trustee, 1808, c. 756, s. 2.)

Clerks to account annually.

their respective clerks, (a) be accounted for, and paid to the county trustee, (b) which monies shall be appropriated in the payment of their jurors, and discharging other county and contingent charges.

2. *And be it further enacted*, That the several clerks of the county courts within this state, shall annually pay to the county trustee of the county of which he may be clerk of the court, all monies that shall be paid into his office on account of fines or forfeited recognizances, as well as all amercements, any law, usage or custom to the contrary notwithstanding.

CHAP. 588.

An act to amend an act, entitled "An act authorising and empowering the county courts of pleas and quarter sessions to divide and appropriate the real estate of intestates," passed in the year one thousand seven hundred and eighty-seven. (c)

(c See 1787, c. 274, s. 1.)

Preamble.

Whereas the above recited act directs, that in the division of lands among the heirs, the commissioners appointed by the court, shall be empowered to charge the more valuable dividend or dividends such a sum or sums as they shall judge necessary to be paid to the dividend or dividends of inferior value, within one year after the commissioners shall have made a return of their proceedings; and whereas it often happens that the estate so divided consists chiefly of uncultivated lands, which are an expense instead of being productive, and will not enable the minor to pay the sum so charged on his dividend in the time limited, without a sale of the land so laid off to him or them, which defeats the intention of the legislature in passing the said act: For remedy whereof,

Duty of commissioners.

1. *Be it enacted, &c.* That from and after the passing of this act, it shall be the duty of the commissioners appointed by the courts to divide the real estate of intestates, to divide the lands of said intestate into equal shares, in point of value, as nearly as possible, by a subdivision of the more valuable tract or tracts of lands.

Manner of dividing estates.

And in case the situation of the real estate is such that an equal division cannot be made without injury to the heirs, and some of the heirs are obliged to be charged

(b See 1792, c. 361, 1793, c. 387—how he is to account.)

with a sum or sums of money to be paid to the dividend or dividends of inferior value, then and in that case, the sum or sums so charged on the dividend or dividends, shall not be payable until the minor shall arrive at the age of twenty-one, any law to the contrary notwithstanding.

Sums charged on dividends not paid till the age of 21.

2. *And be it further enacted*, That the sums so due from the more valuable dividend or dividends, shall bear an interest of six per centum per annum until paid: *Provided always*, That the guardian or guardians of such minor or minors to whom the more valuable dividend or dividends shall fall, shall at all times be at liberty, and is hereby required to pay such sum or sums, whenever assets shall come into his hands sufficient to discharge the same. *Provided nevertheless*, That if it shall appear that the guardian shall have had assets in his hands which he did not apply to the discharge of the sums for which his ward is liable, he the said guardian shall be held and deemed answerable and bound to pay out of his own proper estate, any interest which shall have accrued thereon in consequence thereof, and which might have been stopped, had the same been so applied.

Interest on dividends.

Guardians to pay when assets in hand.

On neglect, guardian to pay out of his own estate.

CHAP. 589.

An act to authorise the county courts of pleas and quarter sessions to sell the real estate of idiots and lunatics, in certain cases.

Be it enacted, &c. That whenever it shall be made appear, to any of the county courts(a) within this state (seven justices at least being present) either by the wardens of the county, or guardian(b) of such lunatic or idiot, that the personal estate of any lunatic or idiot in such county, has been exhausted, or is insufficient for his or her support, and that such idiot or lunatic is likely to become chargeable on the parish, then and in either of such cases, the said county courts are, and are hereby empowered, to make an order for the sale, or for the renting of the real estate of such idiot or lunatic, or any part thereof, in such manner, and upon such terms, as they may deem advisable. And all sales made in pursuance of this act, shall be valid to all in-

(a See 1817, c. 948.)

Cases in which real estates of idiots may be sold.)

(b See 1784, c. 228.)

tents and purposes to convey the whole interest and estate directed to be sold by the county courts as aforesaid, any law to the contrary notwithstanding.

CHAP. 590.

An act for the limitation of writs of error.

Preamble.

Whereas much injustice hath of late been done by prosecuting writs of error on, and reviving ancient judgments rendered in the county courts of this state: For remedy whereof,

Limitation for writs of error.

1. *Be it enacted, &c.* That no writ of error shall be allowed, brought or prosecuted, upon any judgment rendered in any of the county courts of this state, but within five years next after the entering such judgment, and not after.

Saving as to persons non compos mentis, &c.

2. *And be it further enacted,* That if any person or persons who is, are or shall be entitled to prosecute a writ of error, be, or shall be, at the time of his or their right to bring such writ of error, non compos mentis, imprisoned, beyond seas, that then, such person or persons shall be at liberty to bring a writ of error, so as they bring the same within two years after their being of sound memory, at large, returned from beyond seas, or of age, as other persons having no such impediment might have done.

CHAP. 591.

An act to amend the first section of an act, passed in 1792, entitled "An act for appointing an additional judge of the superior court of Morgan district, and for the relief of persons who have, or may hereafter forfeit their recognizances in the superior and county courts.(a)

(a The act of 1792 is not retained.)

(See 1788, c. 292.)

Witnesses excused from forfeitures, to be free of costs.

Be it enacted, &c. That if any witness who shall be summoned, or bound in recognizance to appear and give evidence on behalf of the state, in any of the courts thereof, and shall, by unavoidable accident, or other cause, be prevented from doing so, such witness, on making it appear to the satisfaction of the court which he or she was bound to attend, shall, besides having his or her forfeiture remitted, be wholly exempt and dis-

charged of and from all costs with which he or they would have been chargeable, had he or they not made such excuse.

CHAP. 592.

An act to amend an act, entitled "An act to secure the impartiality of the trial by jury, and to direct the conduct of judges in charges to the petit jury," and to direct how constables in future shall be sworn who are appointed to attend juries on trials of civil cases in the several courts. (See 1812, c. 833—see also 1796, c. 452.)

1. *Be it enacted, &c.* That from and after the first day of May next, it shall be the duty of the clerks of the several superior and county courts within this state, before a jury shall be impannelled to try the issue or issues in any suit or prosecution wherein the state is a party (except in case of capital offences) to read over the names of the jury upon the pannel, in the presence and hearing of the defendant or defendants, his, her or their counsel; and it shall be competent for the defendant or defendants, or their counsel, for them to challenge peremptorily two jurors upon the said pannel, without shewing any cause therefor, which challenge shall be allowed by the court, and the pannel shall then be made up as in other cases. Two Jurors may be challenged, without shewing cause.

2. *And be it further enacted,* That when any constable shall be appointed or summoned to attend any of the superior or county courts (except such as may be appointed to attend the grand jury) it shall be the duty of the clerk, at the time of the first going out of a jury on the trial of any civil cause, to administer an oath to the constable faithfully to attend the several juries that shall or may be put under his care during that term, that shall be charged in the trial of any civil cause. And after the said constable shall be once sworn as herein mentioned, he shall be considered, to all intents and purposes, as acting on oath upon the attendance of every jury that he may be called upon to attend during that term. Constable to be sworn once only for the term.

3. *And be it further enacted,* That all acts and clauses of acts which come within the purview and meaning of this act, are hereby repealed, made void, and of none effect. Former acts repealed.

CHAP. 593.

(*a* See 1788, c. 292.) An act to amend the third section of an act, entitled "An act for appointing an additional judge of the superior court of the district of Morgan, and for the relief of persons who have or may hereafter forfeit their recognizances in the superior and county courts."*(a)*

Preamble.

Whereas the above recited section directs, that a majority of the justices within their respective counties shall be present at the remission of all fines by them inflicted, which in many instances is found to be injurious :

Court's power to remit fines, when 7 justices present.

Be it enacted, &c. That from and after the passing of this act, the several county courts of pleas and quarter-sessions in this state shall have power to remit or mitigate all fines by them inflicted. *Provided*, There are seven justices on the bench, and provided three of whom shall have been present when said fine was inflicted, any law to the contrary notwithstanding.

CHAP. 594.

(*b* See 1768, c. 87, s. 2.) An act to amend the second section of an act, passed at Newbern, in the year of our Lord 1768, entitled "An act to amend an act, entitled An act to restrain the keeping of too great a number of horses and mares, and for amending the breed."*(a)*

Preamble.

Whereas in the aforesaid section, it is enacted, among other things, that no person whatever in this province shall suffer or let go at large any stoned horse or horses of two years old and upwards, unless such horse or horses be at least fourteen hands in height, under certain penalties and forfeitures therein specified; and whereas the suffering of horses of that age and size is found prejudicial ;

Penalty on stoned horses going at large.

Be it enacted, &c. That no person whatsoever in this state shall suffer or let go at large, any stoned horse or horses of two years old or upwards, upon penalty of forfeiting such horse or horses, or the sum of twenty shillings to the taker up of every such stoned horse. *Provided*, the same be found running at large, not within the confine of any fence, water, marsh or swamp, any thing to the contrary in the aforesaid section notwithstanding.

CHAP. 595.

An act to repeal part of an act, entitled, "An act to prevent the several species of hunting therein mentioned, passed at Hillsborough, in the year 1784." (a)

(a See 1784, c. 212, s. 1.)

Whereas the punishment prescribed in said act for fire-hunting, is disproportionate to the offence :

Be it therefore enacted, &c. That so much of the first section of the said recited act as empowers the court, upon conviction of any person for fire-hunting, and upon his failing or refusing to pay the fine therein mentioned, to order the person so convicted to receive thirty-nine lashes on his bare back, be, and the same is hereby repealed and made void. And upon any conviction hereafter for said offence of fire-hunting, the court in which the same is made, on his failing to pay the fine prescribed by said recited act, shall be, and is hereby authorised and empowered to sentence the person or persons convicted, to such term of imprisonment as may be judged adequate to the punishment of the offence, not exceeding two months.

Part of 1st sec. of former act repealed.

Punishment for fire-hunting.

CHAP. 596.

An act to amend an act, passed at Newbern, in the year 1777, entitled "An act to prevent abuses in taking up stray horses, cattle, hogs, sheep, and other things therein mentioned." (b)

(b See 1777, c. 119, s. 4, 5, 6.)

Whereas the before recited act makes no provision for compelling the taker up of stray beasts which have been reclaimed, or died within the time limited by the said act, to produce a certificate thereof within any limited time, and it frequently happens that such certificates are withheld, consequently suits are commenced by the trustee, and on trial the certificates being produced, thereby subjects the county to costs :

Preamble:

Be it enacted, &c. That in future, each and every person taking up a stray or strays, and such stray or strays being reclaimed by the owner or owners thereof, or dying as aforesaid, such takers up shall produce to the ranger of the county a certificate of the same from some justice of the peace of his county, within twelve months after entering such stray or strays ; which certificate the ranger shall note in his book and file in his office,

Certificates to be produced to the ranger in certain cases.

Forfeiture for neglect.

and shall give a receipt for the same, specifying the day and date of the entry of such stray or strays. And in case any taker up of any stray or strays, shall fail or neglect to produce a certificate as aforesaid, he, she or they so failing or neglecting, shall be subject to the payment of all costs which may accrue in consequence of any suit or suits which shall or may be brought against him, her or them, as fully as if no claim had been made, or death happened, any law, usage or custom to the contrary notwithstanding.

CHAP. 597.

(a See 1793, c. 378—1806, c. 708.) An act to divide the second brigade(a) in the first division into two separate and distinct brigades.

Preamble.

Whereas it appears to this General Assembly, that the second brigade in the first division is composed of effective men sufficient to form two, and it being at present divided into a number of regiments and battalions, which make it troublesome and inconvenient for the proper officers to review ;

The two brigades described.

Be it enacted, &c. That from and after the passing of this act, the counties of Craven, Jones, Carteret, Beaufort and Hyde, shall compose one brigade, which shall be called and known by the name of "The Second Brigade;" and that the counties of Johnston, Wayne, Lenoir, Greene and Pitt, shall compose one other brigade, which shall be called and known by the name of "The Twelfth Brigade;" any law to the contrary notwithstanding.

CHAP. 598.

(b See 1793, c. 378—1806, c. 708.) An act to divide the seventh(b) brigade in the fourth division into two separate and distinct brigades.

Preamble.

Whereas it appears to the General Assembly, that the seventh brigade in the fourth division, is composed of effective men sufficient to form two brigades, and it being at present divided into a number of regiments and battalions, which make it troublesome and inconvenient for the proper officers to review :

Be it enacted, &c. That from and after the passing of this act, the counties of Rowan and Iredell shall compose one brigade, which shall be called and known by the name of "The Seventh Brigade;" and that the counties of Mecklenburg, Cabarrus and Montgomery, shall compose one other brigade, which shall be called and known by the name of "The Eleventh Brigade;" any law to the contrary notwithstanding.

The two brigades described.

CHAP. 599.

An act to amend an act, entitled "An act concerning wrecks," passed the last session of the General Assembly. (a)

(a The act of 1800 is not retained.)

Whereas it is represented to this General Assembly, that the said act as it now stands, does not answer the purposes intended: For remedy whereof,

(This act altered by 1817, c. 953, 1805, c. 689.)

1. *Be it enacted, &c.* That after the first day of April next, it shall and may be lawful for the several county courts of Currituck, Carteret, Onslow, New-Hanover and Brunswick, and they are hereby required, at their first county courts, and each and every year thereafter, to appoint two or more discreet and proper persons as commissioners of wrecks in their respective counties, for the next ensuing year, who shall severally enter into bonds, with two or more good and sufficient securities, in the court of the county where they reside, in the sum of two thousand pounds, for the faithful discharge of the duties of their office; and it shall be the duty of the clerks of the aforesaid county courts, to make out a certificate to each commissioner appointed as aforesaid.

Commissioners of wrecks to be appointed.

2. *And be it further enacted,* That it shall be the duty of the commissioners appointed as aforesaid, on the earliest intelligence given, or on application to them made, by or on behalf of any owner, supercargo, or commander of any ship or other vessel being in danger of being stranded, or being stranded, to command any sheriff or constable nearest the coast where such ship or other vessel shall be in danger, to summon as many men as shall be thought necessary to the assistance of such ship or vessel, who are to be under the directions of the master or owner; and the commissioners, and all others who shall assist in preserving any ship or other vessel in distress, or their cargoes, shall, within

To give bond.

Their duty.

forty days, be paid a reasonable reward by the commander or owner of the ship or vessel in distress, or by the merchant whose vessel or goods shall be saved; and in default thereof, the vessel or goods shall remain in the custody of the commissioners or salvors, until all reasonable charges be paid, or security given for that purpose, to the satisfaction of the parties: And in case the parties shall disagree touching the amount of the reward to be paid the persons employed, it shall be lawful for the commander of such vessel saved, or the owner of the goods, or merchant interested, to choose one indifferent person, and also for the commissioners or salvors to nominate one other indifferent person, who shall adjust and ascertain the same, and such adjustment shall be binding on all parties, and to be recoverable, with costs, in any court of record, or any competent jurisdiction within this state.

Where a disagreement, indifferent persons to be chosen.

Forfeiture on unauthorised persons interfering.

3. *And be it further enacted*, If any person besides those empowered by the commissioners, or any one of them, shall enter, or endeavour to enter, on board any vessel in distress or stranded, without the leave of the captain or owner; or in case any person shall molest them in saving the vessel or goods, or shall deface the marks of any such goods before they be taken down in a book by the commissioners, or one of them, every such person shall forfeit and pay the sum of one hundred pounds, to be recovered before any competent jurisdiction in this state, to the use and benefit of the owner of the vessel or goods, as the case may be; and in case of failure to pay such forfeiture immediately, or give security to pay the same within twenty days, he or they shall be committed to the county jail not exceeding three months. And in case any goods shall be found upon any person that were stolen or carried off from any vessel in distress or stranded, the person upon whom such goods shall be found, shall, upon demand, deliver the same to the owner or commissioners, or to such other person as shall be authorised by the owner or commissioner to receive such goods, or shall be liable to pay treble the value, to be recovered before any competent jurisdiction, as aforesaid.

Forfeiture for not delivering stolen goods when demanded.

How the commissioners shall act where no one claims.

4. *And be it further enacted*, That should any vessel or other property be cast ashore, within the limits of any of the aforesaid counties, without any person present to claim the same as owner, the commissioners, or

one of them, shall take possession thereof, and cause a true description of the marks, numbers and kinds of such goods to be advertised in one or more public gazettes, for the space of eight weeks; and if no person shall claim the same within twelve months, public sale shall be made thereof; but if perishable, the goods shall be sold after being advertised in two or more public places, not less than ten, nor more than twenty days, as circumstances may require: And after all reasonable charges deducted, the residue of the money, with an account of the whole, shall be transmitted to the clerk's office of the court of the county where such vessel may be stranded or goods saved; and the said clerk shall make a record and keep an account of the same, for the benefit of the owner, who, upon proof of his property to the satisfaction of the commissioners, together with two justices, shall, by their warrant or order, receive the same, paying to the clerk of such court, one per cent. for his trouble; but should the net amount of such sales by any commissioners as aforesaid, exceed the amount of the clerk's bond, then and in that case, it shall be the duty of the commissioners aforesaid to transmit the amount to the clerk's office of the district court of the district where such vessel or goods may have been stranded, under the same regulations as if it had been put into the hands of the clerks of the county courts as aforesaid; and should no person claim the same within a year and one day from the date of the advertisement, it shall then and in that case, be the duty of the clerk holding such money, to transmit the same, after deducting one per cent. for his trouble, to the public treasurer of the state, for the use of the state.

Produce of sales when unclaimed to go to the public treasury.

5. *And be it further enacted,* That when any person or persons shall find any stranded property on or near the sea-shore, and no owner appearing to claim the same, he or they shall, as soon as possible after saving the same, give information to the nearest commissioner thereof, and to him deliver the same, for which he shall be entitled to his reasonable salvage, to be ascertained in manner before directed; and should any person finding stranded goods or other property as aforesaid, conceal the same, or convert them to his own use, or fail within ten days to give information thereof to the nearest commissioner of wrecks in his or their county, on proof thereof had, he or they shall pay to the commis-

Persons finding stranded property, what they shall do.

sioners discovering the same, double the value of such property, to be recovered before any competent jurisdiction having cognizance thereof.

Persons stealing
stranded prop-
erty.

6. *And be it further enacted*, That if any person shall embezzle or steal any stranded property, or conceal the same knowing it to have been stolen, such person or persons, upon due proof thereof, shall forfeit and pay to the owner or commissioner, double the value of the stolen goods so proved against him or them, or found in his or her possession, to be recovered before any justice of the peace, or any other competent jurisdiction; and the person or persons so feloniously taking or concealing the same, shall moreover be liable to be prosecuted on behalf of the state, and suffer as in other cases of theft.

Commissioners
abusing their
trust.

7. *And be it further enacted*, That should any commissioner appointed as aforesaid, either by fraud or wilful neglect, abuse the trust so reposed in him, he shall, upon conviction thereof, forfeit and pay treble damages to the party aggrieved, to be recovered, with costs, by action on the case, in any court of record, and shall thereafter be incapable of acting as a commissioner. And any sheriff or constable, or other persons summoned as aforesaid, refusing or neglecting to give the assistance required for the saving any vessel or her cargo, shall forfeit and pay the sum of forty shillings, to be recovered by the commissioners ordering such duty before any justice of the peace in the county where such duty was required.

Commissioners'
oath.

8. *And be it further enacted*, That the commissioners so appointed, after the first day of April next, before their entering into bonds, shall, in their county courts respectively, take and subscribe to the following oath, to wit: "I A. B. do solemnly swear, that I will truly and faithfully discharge the duties of a commissioner of wrecks in the county of _____ agreeably to law, and to the best of my skill and abilities: So help me God." And the commissioners appointed as aforesaid, in their respective counties, where there may be any stranded or wrecked property cast ashore, or any such property coming into their hands, where there appears no owner to claim the same, that such commissioner shall be allowed for his trouble a sum not exceeding five per cent. on the value or sales of such goods, in full for all services by him or them performed, and no more.

Commissioners'
allowance.

9. *And be it further enacted*, That an act, entitled "An act concerning wrecks," passed in the year one thousand eight hundred, be, and the same is hereby repealed and made void. Former act repealed.

CHAP. 600.

An act to amend an act, entitled "An act for facilitating the navigation, and regulating the pilotage of the several ports in this state,"^(a) so far as respects the port of Washington, and other purposes. (a See 1783, c. 194, and the acts there cited.)

Whereas there remains but one commissioner of navigation, named in the second section of the above recited act, for the port of Bath, now the port of Washington, within the limits of the said town; and whereas by the arrival of vessels, the inhabitants of the town of Washington are frequently exposed to the importation of infectious and contagious diseases: For remedy whereof, Preamble.

1. *Be it enacted, &c.* That Ralph Potts, Walter Hanrahan, Lewis Leroy, and William Kenedy be, and they are hereby appointed commissioners of navigation of the port of Washington, in addition to the survivors, which commissioners and their successors, are hereby vested with the same power and authority the first commissioners were entitled to, or would by law have used or exercised: And whenever any vacancy shall happen, by the death, removal or resignation of either of them, so as to reduce their number less than five, some other person or persons shall be elected by the freemen of the town of Washington, at the same time, and in the same manner, that commissioners of the town aforesaid are elected. *Provided nevertheless*, That no person shall be eligible as commissioner of navigation for the port of Washington, who is not a resident of the said town, and who does not possess a freehold within the same. New commissioners appointed.
Freemen to elect in future vacancies.

2. *And be it further enacted*, That every pilot acting under the authority of any of the boards of commissioners of navigation for the ports of Newbern, Washington, Edenton, or Beaufort, shall, within six months after the passing of this act, enter into bond, with two or more sufficient securities, in the sum of five hundred pounds, for the faithful discharge of the duties of their Pilots to give bond.

office, payable to the said boards of commissioners respectively, and shall and may be put in suit by the party grieved for any breach thereof, and recovery had thereon in an action of debt in any court of record having cognizance thereof, to the amount of the damage sustained by the party at whose instance such suit shall be brought.

Vessels under
50 tons not to
pay pilotage.

3. *And be it further enacted*, That none of the pilots of any of the said above mentioned ports, shall exact pilotage from any vessel belonging to any citizen of this state going to or coming from any of the ports of the United States, which shall be under the burthen of fifty tons, unless such vessel shall have given a signal for a pilot, or otherwise shall require to be carried in by a pilot.

Part of former
act repealed.

4. *And be it further enacted*, That so much of the above mentioned act as comes within the purview and meaning of this act, is hereby repealed and made void.

CHAP. 601.

An act to revive and continue in force, an act, entitled "An act for running the boundary line between the counties of Montgomery and Moore," passed in 1798.

Be it enacted, &c. That the before recited act be, and is hereby declared to be in force until the said line is run, agreeable to the true intent and meaning of said law, and no longer, any thing to the contrary notwithstanding.

CHAP. 602.

An act to annex part of Pitt county to Edgecomb.

Part of Pitt
County added
to Edgecomb.

1. *Be it enacted, &c.* That from and after the passing of this act, all that part of Pitt county, bounded as follows, shall be added to the county of Edgecomb: Beginning where Edgecomb county-line crosses Coneto creek, near Samuel Crisp's; then down said creek to Cristopher Harrod's plantation, then nearly west to Edgecomb county-line, so as to include James Summerlin; and all that part north of said line shall hereafter be part of the county of Edgecomb, and under the same

rules and regulations as the said county of Edgecomb is or may be.

2. *And be it further enacted*, That William Wilkinson, Commissioners Allen Atkerson, John Staniel, Nathan Staniel, James to run the lines Averitt, William Cherry, senior; they or a majority of them, are authorised and required to run and mark the lines agreeably to the aforesaid act, and make return of their proceedings to the next courts to be held for the counties of Pitt and Edgecomb, to be recorded under the directions of said courts; any law to the contrary notwithstanding.

CHAP. 603.

An act to confirm the titles to lands entered in Beaufort or Martin counties, and to ascertain the boundaries of the said counties.

Whereas the act of Assembly which establishes the county of Martin, describes the southern boundary of the same to run by the Pitt line to the Beaufort line, to the head of Welch's creek; and as a part of that line has never been run, disputes may arise respecting lands granted contiguous to the line:

1. *Be it enacted, &c.* That where any vacant lands may have been entered or granted in either of the counties of Beaufort or Martin, the same shall have preference and effect according to the date of the entry, as fully as though it had been made in the county where the land may prove to be on running the line. Entries of land in either county valid.

2. *And be it further enacted*, That the county courts of Beaufort and Martin, be and they are hereby authorised and empowered to appoint each of them two persons as commissioners, who with the surveyors of said counties, shall run the said dividing line as prescribed in the before recited act. Commissioners, &c. to run the line.

CHAP. 604.

An act to annex part of Tyrrell to Washington county.

1. *Be it enacted, &c.* That from and after the passing of this act, all that part of Tyrrell lying and being on the south and west side of Indian swamp, and the canal Part of Tyrrell added to Washington county.

beginning at the present dividing line of said counties, in such place as shall make a straight course to the centre of the Indian Swamp Bridge, thence in a straight direction to the mouth of the canal, thence up said canal to Lake Phelps, thence a south course to Hyde county line, shall remain and constitute a part of Washington county.

Obligations on
the inhabitants.

2. *And be it further enacted*, That all the inhabitants residing between the former dividing line of Washington and Tyrrell, and the above described boundaries, shall do and perform public duties, and be subject to the same rules and regulations in Washington county, as other citizens of said county are subject to.

Commissioners
to run the line.

3. *And be it further enacted*, That Woolsey Hatchaway and Richard Davis be, and they are hereby appointed commissioners on the part of Tyrrell, and James Jones and John Sleight, commissioners on the part of Washington, and Alsa Phelps surveyor, for running the line between said counties; and that it shall be the duty of said surveyor and commissioners, or a majority of them, after completing the running of said line, to return a fair plat to the court of each county, to be recorded by their respective clerks; for which services the court of each county shall make him compensation adequate to the same, and the expenses so incurred shall be mutually paid by said counties: And that this act shall take effect and be in force from and after the first day of February next.

Repealing
clause.

4. *And be it further enacted*, That all acts and clauses of acts contrary to the true intent and meaning of this act, be and the same are hereby repealed and made void to all intents and purposes.

CHAP. 605.

An act to annex part of the county of Craven to Greene.

Part of Craven
annexed to
Greene county.

Be it enacted, &c. That from and after the passing of this act, all that part of the county of Craven lying in the fork of Great and Little Contentnea creek, shall be, and the same is hereby added to the county of Greene to all intents and purposes whatsoever.

CHAP. 606.

An act to annex part of the county of Beaufort to Craven county.

Whereas it is represented to this General Assembly, that it would be of considerable utility to a number of persons to annex that part of Beaufort county that lies between Jones's and Bay Rivers, to the county of Craven :

1. *Be it enacted, &c.* That from and after the passing of this act, all that part of Beaufort county that lies within the following bounds, viz. Beginning at the head of Jones's bay, and running a direct line to Bay River Bridge, near Palmer's cabbins ; thence down the meanders of said Bay River to Jones's Bay, thence with said bay to the beginning.(a)

Part of Beaufort annexed to Craven county.

2. *And be it further enacted,* That all persons living within the before mentioned bounds, shall be liable to do all public duties in Craven county, in all respects as they were compelled to do in Beaufort county, any thing to the contrary notwithstanding.

Duty of the inhabitants.

Read three times and ratified in General Assembly, }
the 19th day of December, Anno Dom. 1801. }

JOSEPH RIDDICK, S. S.

STEPHEN CABARRUS, S. H. C.

Copy.—WILL. WHITE, Secretary.

At a General Assembly, begun and held at Raleigh, on the fifteenth day of November, in the year of our Lord one thousand eight hundred and two, and in the twenty-seventh year of the independence of the said state.

James Turner,
Esq. governor.

CHAP. 607.

An act for the relief of the Tuscarora nation of Indians.

Whereas the Indians composing the Tuscarora nation, have by their Chief Sacarusa, and others, regularly deputed and authorised, requested the concurrence of the General Assembly of this state to enable them to lease or demise, for a number of years, the residue of

Preamble;

(a I have examined the manuscript and I find this unfinished section to be a true copy from the original. H. P.)

their lands situate in the county of Bertie, in such a manner that the whole of the leases on said land shall terminate at the same period ;

Chiefs authorised to lease their lands.

1. *Be it enacted, &c.* That the said Chief Sacarusa, Longboard and Samuel Smith, or a majority of them, be, and they are hereby authorised to lease and to farm let, the undemised residue of the lands allotted to the Tuscarora nation in Bertie county, for a term of years that shall expire and end when the lease made by the Tuscarora nation to Robert Jones and others, in the year one thousand seven hundred and sixty-six, shall end and expire, and also extend the term or terms of the leases already made or granted for a shorter term, to a term or terms which shall expire at the same time with the said lease made in the year one thousand seven hundred and sixty-six, in such parcels and on such rents and conditions as may be approved by the commissioners appointed in pursuance of this act, and which may best promote the interest and convenience of the said Indian nation.

And to extend leases already made.

And whereas some difficulties have arisen respecting the receipt and payment of the rents on some of the present leases,

To make alterations with respect to rents.

2. *Be it further enacted,* That the said Chiefs, or a majority of them, be, and they are hereby authorised to make such alterations, by covenant or agreement, respecting the payment and receipt of any of the rents due, or that may become due on any of the existing leases, as the commissioners appointed in pursuance of this act, or a majority of them, shall approve.

Whereas the said Indian Chiefs are ignorant of the usual forms of business, and may want advice and assistance in transacting the business respecting their lands, for remedy whereof, and to prevent their being injured,

Governor to appoint three commissioners for carrying this act into effect.

3. *Be it further enacted,* That the governor shall appoint three commissioners for the purpose of carrying the provisions of this act into effect ; and no lease, grant, demise, covenant or agreement made by said Indian Chiefs as aforesaid respecting said lands, or the rents thereof, shall be good or valid in law, unless the same shall be approved by said commissioners, or a majority of them, and such approbation shall be expressed in writing, and annexed or endorsed on such lease, covenant or agreement, and registered in the register's office

of the county of Bertie, together with said lease or agreement; and the said commissioners shall receive the sum of twenty-five shillings per day for their compensation, and expenses, to be paid out of the monies received by the said Chiefs on leasing said lands.

4. *And be it further enacted*, That the occupancy and possession of the tenants under the said leases, heretofore confirmed by act or acts of the General Assembly, and such leases as may be made under this act, shall be held and deemed, in all cases whatsoever, the occupancy and possession of the said Tuscarora nation, to all intents and purposes as if the said nation, or the Indians thereof, or any of them, actually resided on said lands.

Possession of the tenants to be deemed the possession of the Tuscarora nation.

Whereas the said Chiefs Sacarusa, Longboard and Samuel Smith, being duly and fully authorised and empowered by the said Tuscarora nation, have consented that the Indian claim to the use, possession and occupancy of said lands, shall cease and be extinguished, when the said lease made in the year one thousand seven hundred and sixty-six, to Robert Jones and others, shall expire.

5. *Be it enacted*, That from and after the twelfth day of July, which shall be in the year one thousand nine hundred and sixteen, the whole of the lands allotted to the said Tuscarora Indians, by an act of the General Assembly passed at Newbern, on the fifteenth day of October, in the year of our Lord one thousand seven hundred and forty-eight, (a) shall revert to, and become the property of the state, and the Indian claim thereto, shall, from that time, be held and deemed forever extinguished.

The land to revert to the state in 1916.

(a C. 43.)

6. *And be it further enacted*, That after the said lands shall revert to the state, if the same, or any part thereof, shall be vacant, the same shall not be liable to the entry or entries of any person or persons, without an express act of the legislature to that effect: *Provided always*, That it shall not be lawful for any person or persons to make any entry or entries on the said land, after the passing of this act: *Provided always*, That nothing in this act contained shall be construed so as to effect the title of any individual: *Provided nevertheless*, That no lot or parcel of lands laid off under the direction of said commissioners, shall exceed two hundred acres: *And provided further*, That no lease shall be made but by public auction, of which due notice shall be given in the Halifax and Edenton newspapers.

If any of the land be vacant, it is not to be entered but by an express act.

Provisos.

CHAP. 608.

An act to prevent the vile practice of duelling within this state:

Punishment for sending, accepting or being the bearer of a challenge.

1. *Be it enacted, &c.* That from and after the passing of this act, no person sending, accepting or being the bearer of a challenge for the purpose of fighting a duel, though no death ensues, shall ever after be eligible to any office of trust, honour or profit in this state, any pardon or reprieve notwithstanding; and shall further be liable to be indicted, and on conviction before any of the courts in this state having cognizance thereof, shall forfeit and pay a sum not exceeding one hundred pounds to the use of the state.

For fighting a duel, where one party is killed.

2. *And be it further enacted,* That if any person fights a duel in consequence of a challenge sent or received, and either of the parties should be killed, then the survivor, on conviction thereof, shall suffer death without benefit of clergy; and all their aiders or abettors shall be considered accessaries before the fact, and likewise suffer death without benefit of clergy.

CHAP. 609.

(a See 1794, c. 414.)

An act to amend an act, entitled "An act directing the mode of recovering debts of twenty pounds and under." (a)

Justices to have jurisdiction of debts of 25l.

1. *Be it enacted, &c.* That from and after the first day of May next, justices of the peace shall have jurisdiction of all debts and demands of twenty-five pounds and under, agreeable to the restrictions of the before recited act.

And whereas doubts have arisen how recoveries may be had upon judgments had before justices of the peace of twelvemonths standing, where execution hath not issued; for remedy whereof,

Executions not issued in twelve months to be recovered by warrant.

2. *Be it enacted,* That where judgment shall be had and execution not issued within twelve months thereafter, it shall be lawful to sue for and recover the same by warrant, before a justice of the peace, and that the former judgment shall be evidence of the debt, subject to such deductions as the defendant may make appear on trial to have been paid, in full or in part of said former judgment.

3. *And be it further enacted*, That whenever it shall hereafter happen that judgment shall be entered against either plaintiff or defendant, he, she or they not being present, that at any time within ten days after such judgment, the person or persons against whom such judgment hath been given, on making oath before any justice of the county where such judgment may be entered, that he, she or they was or were prevented from attending on the day of trial, by bodily infirmity, mistaking the day of trial, or other sufficient cause, and that he, she or they are likely to be injured by such judgment, that then and in that case, it shall and may be lawful for such justice to grant an appeal to the next county court, ^(a) or stay of execution, on such person or persons entering into bond with sufficient security, as in other cases of granting appeals or staying of execution from the judgment of the justice; and it shall also be the duty of such justice, to give to the party craving such appeal, a written order to the constable, or other person having such judgment in his or their hands, commanding him to return said judgment, together with such other papers and documents as may be in their hands relative to such judgment, to him the said justice before the next county court; and also commanding said officer to give notice to the party in whose favour such judgment hath been given, of an appeal being granted thereon; and that it shall be the duty of the justice, on receiving such judgment and other papers, to make return thereof, together with the appeal bond and affidavit of the party craving such appeal, to the next ensuing court of his county, to be tried as other appeals from justices' judgments.

Persons prevented from attending a trial from unavoidable causes may appeal within ten days.

(a See 1803, c. 627, s. 5, 1812, c. 832—right extended.)

5. *And be it further enacted*, That all forfeitures and penalties ^(a) incurred by virtue of the General Assembly not exceeding twenty-five pounds, shall and may be recovered by warrant before any justice of the peace, any law to the contrary notwithstanding.

All forfeitures not exceeding 25l. may be recovered by warrant.

(b See 1803, c. 627, s. 1.)

CHAP. 610.

An act making further provision for the redemption of the certificate debt of this state. (See 1801, c. 568.)

Forasmuch as justice and sound policy require that the certificate debt of this state should be redeemed

Preamble.

whenever the finances of the state are adequate thereto, and it appearing that there is now in the public chest, monies unappropriated commensurate to its redemption, therefore,

Treasurer to purchase the principal and interest of the debt.

If presented by 1st of December next.

Exceptions.

At 15s. in the pound.

No certificate to bear interest after 1st of December.

Act to be published.

1. *Be it enacted, &c.* That it shall and may be lawful for the public treasurer for the time being, and he is hereby authorised and directed, to purchase in for the use and benefit of the people of this state, after the first day of January next, the principal and interest of all the certificates heretofore issued, agreeably to the acts and under the authority of the legislature of this state, which shall be presented to him before the first day of December next; those issued at Warrenton in the year one thousand seven hundred and eighty-six; those issued by Patrick Travis, commissioner of Cumberland county; those issued for services in the western country, commonly called "Chickamauga certificates," and all those not at present receivable at the treasury office, excepted, paying and giving for each pound of the principal and interest which shall be presented to him and purchased as aforesaid, the sum of fifteen shillings, reckoning and allowing interest on any of said certificates bearing interest, to the day of purchase: *Provided always,* That no certificate shall bear interest after the first day of December next.

2. *And be it further enacted,* That the treasurer shall cause this act to be published at least three weeks in one or more of the newspapers published in this state.

CHAP. 611.

An act to amend the several land laws in this state, so far as respects surveys being made and returned into the secretary's office.

Whereas by an act of the General Assembly of this state, passed last session, (a) all lands entered previous to the first day of January, one thousand seven hundred and ninety-eight, that may have been paid for as by law directed, and not surveyed and returned into the secretary's office by the first day of December, one thousand eight hundred and two, are declared lapsed lands to the state, which in many instances will tend to the great injury of many of the good citizens of this state: For remedy whereof,

(a See 1801, c. 569, s. 1.)

Preamble.

Be it enacted, &c. That all bona fide entries of lands in this state, previous to the first day of January, one thousand seven hundred and ninety-eight, which have been paid for, shall have until the first day of January, one thousand eight hundred and four, to have said lands surveyed and returned into the secretary's office; and all such lands not surveyed and returned into the secretary's office by the day aforesaid, shall become void, and are hereby declared lapsed lands to the state, and may be thereafter entered by any person as other vacant and unappropriated lands in this state.

Entries made before 1798 and paid for, to have till 1804 to have them surveyed and returned.

CHAP. 612.

An act to amend the sixth section of an act, passed at Raleigh in the year 1801, entitled "An act to amend the several land laws of this state." (a)

(a 1801, c. 569.)

Whereas it may so happen, that some persons who have made entries of lands in the years one thousand eight hundred, and one thousand eight hundred and one, may not have had it in their power to pay the purchase money into the treasury of the state by the first day of December, one thousand eight hundred and two, and thereby be injured by their entries lapsing: (b) For remedy whereof,

Preamble.

(b Ibid, s. 6.)

1. *Be it enacted, &c.* That all claimants of entries of lands made in the years one thousand eight hundred, and one thousand eight hundred and one, who shall not have paid for the same before the first day of December, one thousand eight hundred and two, shall have until the twentieth day of December, one thousand eight hundred and three, (a) to pay the purchase money into the treasury for the same; and all entries so paid for are declared to be as good and valid in law, as if the same had been paid for according to the fifth section of act passed in the year one thousand eight hundred and one, entitled "An act to amend the several land laws in this state;" and the said entries shall, within two years after the said twentieth day of December, one thousand eight hundred and three, perfect their entries by grant; and all entries not perfected by grant within the time aforesaid, shall be deemed lapsed, and shall revert to the state, any thing to the contrary notwithstanding.

Entries of land made in 1800 & 1801, not paid for, to have till Dec. 20, 1803, to pay the money.

(a See 1803, c. 637.)

Not to extend
to entries of
more than 640
acres.

2. *And be it further enacted*, That the provisions of this act shall not extend or be construed to extend to give relief or further indulgence to any person or persons, who have, by any entry or entries, entered land to a greater amount than six hundred and forty acres.

CHAP. 613.

(Obsolete.)

An act to amend an act directing the manner in which confiscated lands shall in future be disposed of, passed in the year one thousand eight hundred and one.

Preamble.

Whereas by the above recited act, it is not mentioned what credit shall be given by the commissioner appointed under the above act, for the lands by him sold, nor how long the same shall be advertised before sale; and for making said act more perfect,

Commissioner
to seize confis-
cated land and
cause it to be
sold.

1. *Be it enacted, &c.* That from and after the passing of this act, when any commissioner of confiscated property, shall have information of any confiscated land within his district, it shall be his duty to seize said lands for the use of the state, and shall cause the same to be sold at public sale, on a credit of one year for one moiety, and two years thereafter for the other moiety, for the most that may be gotten for the same, first giving two months notice by advertisement in the Raleigh Register, or in any gazette published in the district where the land lieth, and by advertisement to be set at the court-house of said district, and at each of the other court-houses within the same; and if any person should lay claim to said lands, previous to the sale thereof, he shall notify the same to the commissioner, who shall at the next succeeding court of the district, cause an issue to be made up between the state and the person so claiming the land aforesaid, and a jury shall be impanelled to try the same, subject to the same rules and regulations as are practised in the trials of other suits at law.

To be adverti-
sed.

When any claim
is made issue to
be tried.

Commissioner
to sell confisca-
ted lands at the
court-house.

2. *And be it further enacted*, That it shall be the duty of the commissioner of each district, to sell the confiscated lands within his district at public sale at the court-house in the county where the land lieth, first giving forty days notice by advertisement, to be set up at the court-house and four other public places in said

county where said lands may lie; and for all sales made under this act, he shall give the credit aforesaid, and take from the purchasers bond and sufficient security for the purchase money, payable to himself for the use of the state; and immediately after the expiration of the time for which credit was given, he shall proceed to collect the same; and the same being collected, shall transmit the amount thereof to the treasury of this state, first deducting ten per cent. for his commissions on the same.

Purchase money to go to the treasury.

3. *And be it further enacted*, That it shall be the duty of each commissioner, previous to his selling any of the confiscated lands under this act directed, to issue his order to the surveyor of the county where the land lieth, directing him to proceed to run out the lines of said land, and make two just and fair plans thereof, and return the same to him within forty days after the receipt of such order; for which service, together with the hire of chain-carriers, the said surveyor shall be allowed forty shillings for each tract of land by him so surveyed and returned, to be paid by the said commissioner, out of the first money which may come into his hands, which shall be allowed him in the settlement of his accounts with the public treasurer.

The lines of land to be run before it is sold.

4. *And be it further enacted*, That when any tract of land shall be sold, by and under the direction of this act, the commissioners shall endorse on each of the plats of survey of said land, the following certificate: "I A. B. commissioner of confiscated property, for the district of do hereby certify that did on the day of in the year at the court-house in the county of bid off the land mentioned in the within plat, for the sum of and hath given bond and security for the purchase money of the same agreeably to law;" which plats being thus certified and presented to the secretary of state, he shall file the same in his office, and thereupon make out a grant to the purchaser, with one of the plats annexed thereto; which grant shall be executed by the governor for the time being, and shall convey to the said purchaser, his heirs and assigns, all the estate, right and title which this state may have in and to said land.

Plats of survey to be endorsed by the commissioner.

To be filed with the secretary, who is thereupon to make out a grant.

CHAP. 614.

An act for the relief of persons who have obtained grants for lands which are covered in whole or in part by grants of older date.

Preamble.

Whereas it is represented to this General Assembly, that in many instances, grants have been issued upon warrants, located upon lands previously located and granted by the state of North-Carolina, by which the persons claiming under the second grants, are deprived of the benefit of their warrants; For remedy whereof,

What is to be done where there is more than one grant.

1. *Be it enacted, &c.* That where one or more grants have issued for the same land or part thereof, for lands granted by this state, it shall and may be lawful, on the agreement of the parties made in writing, filed with the surveyor of military land warrants appointed by this state, for said surveyor, by himself or deputy duly appointed, and sworn chain-carriers, to survey such lands and certify the quantity that may be deficient, or be lost by the grantees or either of them, and return the surveys to the office of the secretary of this state; whereupon the secretary shall issue a warrant or warrants to the grantee or grantees, for so many acres of land as may be deficient or lost as aforesaid, upon which the same proceedings shall be had, as in the case of original warrants; and in case the parties grantees cannot agree, then claims for deficiencies shall be allowed upon the party claiming under the second or younger grant, producing to, and filing with the secretary of state, a copy of the record, shewing, that in a trial at law before competent jurisdiction, that he hath lost the whole or part of the land contained in his grant.

No person to have relief more than once.

2. *And be it further enacted,* That no person shall have relief more than once under this act, for every tract of land he may have obtained a grant for, neither shall this act be held to any other lands than granted on warrants issued from the office of John Armstrong, or military warrants.

CHAP. 615.

An act to ascertain in what manner disputed claims to land warrants for lands entered in the office of John Armstrong, and for military lands, shall be tried and determined. (See 1796, c. 456.)

1. *Be it enacted, &c.* That whenever the secretary of state shall advertise a claim for a warrant for lands entered in the office of John Armstrong, or for a military land warrant, and an adverse claim shall be set up by any person or persons, it shall be the duty of the secretary of state to certify such claim and adverse claim to the superior court of law for the district in which the first claimant resides; or if the first claimant resides out of the state, then to the superior court of the district in which the second claimant resides; and if both reside out of the state, then to the superior court of law for Hillsborough district; and when the secretary's certificate shall be filed in any court, an issue shall be made up to try the right of the contending parties, which shall be tried under the same rules and regulations as suits at common law are tried; and upon the finding of the jury, and the judgment of the court before whom such issue shall be tried, it shall be the duty of the clerk of said court to certify under his hand and the seal of his office, such verdict and judgment, and the secretary shall then issue a grant to the party prevailing.

When adverse claims are set up, the secretary to certify the claims to the superior courts, &c.

Issue to be made up and tried.

2. *And be it further enacted,* That this act shall extend to all cases where claims have been already made for land warrants, and adverse claims set up thereto, and which are not decided, and shall be in force from and after the passing thereof.

To extend to all claims not yet decided.

CHAP. 616.

An act to empower the several county courts within this state to appoint patrols.

1. *Be it enacted, &c.* That from and after the passing of this act, the several county courts within this state, shall have full power and lawful authority, to direct, in such manner and in such numbers, and under such rules, regulations and restrictions, the patrols in their respective counties shall be appointed and governed, and

County courts to appoint patrols.

the said patrols when appointed, shall be subject to such rules, regulations and restrictions as their respective county courts shall ordain and establish, and under such fines and penalties as the said court shall fix and direct.

Their powers.

2. *And be it further enacted*, That the patrols appointed in pursuance of this act, shall have all the powers and authorities vested in the patrols, as by an act passed in the year one thousand seven hundred and ninety-four.(a)

(a See 1794, c. 406, s. 1, 5.)

County courts to lay a tax if necessary.

3. *And be it further enacted*, That the several county courts within the state, if they shall deem it necessary, shall have full power and authority, from time to time, to lay a tax not exceeding one shilling on every taxable black poll within their respective counties, for the purpose of paying the patrols by them appointed in pursuance of this act : *Provided always*, That there shall be a majority of the acting justices present where such tax is laid as aforesaid.

Former acts repealed.

5. *And be it further enacted*, That so much of the several acts as shall come within the purview and meaning of this act shall be repealed and made void.

CHAP. 617.

(See 1793, c. 403.)

An act for the better regulation of the sheriffs' fees.

Sheriffs' fees in future.

1. *Be it enacted, &c.* That from and after the first day of February next, the sheriffs of the different counties within this state shall be entitled, for the following services, to the fees respectively annexed thereto : for every arrest, the sum of seven shillings and six pence, for every bail bond, the sum of two shillings and six pence, for every subpoena he shall serve, the sum of three shillings, for every attachment levied, the sum of seven shillings and six pence, for taking replevy bond upon such attachment, the sum of two shillings and six pence, for putting in stocks, six shillings, for every commitment, three shillings, for every release, three shillings, for executing every writ of possession, the sum of ten shillings, for calling every suit in court, the sum of six pence.

Former acts repealed.

2. *And be it further enacted*, That the fees heretofore by law prescribed for the services above mentioned.

and all laws and parts of laws coming within the meaning and purview of this act, are hereby repealed and made void.

CHAP. 618.

An act to prevent conspiracies and insurrections among the slaves.

1. *Be it enacted, &c.* That if any number of negroes or other slaves, shall, at any time hereafter, consult, advise or conspire to rebel or make insurrection, or shall plot or conspire the murder of any person or persons whatsoever, every such consulting, plotting or conspiring, shall be adjudged and deemed felony, and the slave or slaves convicted thereof in the manner prescribed by law, shall suffer death, or be transported, as hereinafter provided.

Conspiracy of negroes to be deemed felony, and punished with death.

2. *Be it further enacted,* That if any negro or other slave shall be found in a state of rebellion or insurrection, or shall agree to join any conspiracy or insurrection, or shall procure or persuade others to join or enlist for that purpose, or shall knowingly and wilfully aid or assist any slave or slaves in a state of rebellion, or engaged in a conspiracy to make insurrection, as by furnishing, or agreeing or promising to furnish, such persons with arms, ammunition, or any other article for their aid and support, every slave so offending, and being thereof legally convicted, shall be adjudged guilty of felony, and shall suffer death, or be transported, as hereinafter provided.

Punishment the same, if one negro aids or agrees to join, &c.

3. *And be it further enacted,* That if any free person shall join in any conspiracy, rebellion or insurrection of the slaves, or shall agree to join in any such conspiracy, rebellion or insurrection, or shall procure or persuade others to join or enlist for that purpose, or shall knowingly and wilfully aid or assist any slave or slaves in a state of rebellion, or engaged in a conspiracy to make insurrection, as by furnishing, or agreeing or promising to furnish, such slaves with arms, ammunition, or any other articles for their aid and support, every free person so offending, and being thereof legally convicted, shall be adjudged guilty of felony, and shall suffer death without benefit of clergy.

Punishment for free persons who join or aid &c.

What testimony shall be received.

4. *And be it further enacted*, That in all cases wherein a slave shall hereafter be prosecuted for the offences described in this act, the court may take for evidence, the oath of one or more creditable witnesses, the confession of the offender, freely given without any undue influence, either by terror or persuasion, or the testimony of a negro or other person of colour, bond or free; but in all cases where the testimony of one negro or person of colour shall be admitted, the same shall not be deemed conclusive and sufficient to convict the person charged, unless the same shall be supported by such pregnant circumstances as to the jury on said trial, shall appear convincing proof, when taken together with the testimony of such negro or person of colour.

Whereas it may not be necessary for the purpose of salutary example that all the slaves concerned in an insurrection, shall suffer death, while it might be impolitic and improper that they should remain in the state;

When a sufficient example made, the court may commute the punishment.

5. *Be it enacted*, That in all cases of conspiracy, rebellion or insurrection by the slaves, when a sufficient example has been made, by the conviction and execution of any number concerned in such rebellion or insurrection, the court before whom the slave or slaves shall be convicted, shall have full power to commute the punishment of death for transportation out of the state, and beyond the limits of the United States, under such restrictions and upon such conditions as good policy and the public safety at the time shall require.

Slave transported, returning, to suffer death.

6. *Be it further enacted*, That whenever a slave shall be transported in consequence of the provisions of this act, either by the owner or the state, and such slave, shall ever thereafter voluntarily return to, and be found in the state, such slave shall suffer death in pursuance of the original sentence passed against him, on proof of his identity in the usual form of law; and if such slave shall be brought into any county in this state by his or her master or mistress, or by any other person, such slave shall be forfeited, (on proof thereof) to the county into which the same may be brought, which slave shall be again transported by order of the county court, and sold for the use of the county.

Or if bro't into this state by his owner, to be forfeited.

And whereas the civil authority may be found insufficient for the suppression and detection of a conspiracy or insurrection among the slaves in this state:

7. *Be it therefore enacted*, That it shall be the duty of any commissioned officer of the militia of this state, on application or order of any two or more justices of his county, to order out the militia under his command, or such part thereof as may be necessary to detect and suppress such conspiracy, rebellion or insurrection of the negroes or other slaves; and the militia so raised shall perform such duty and services as they shall be required to do by their commanding officer, and shall appear furnished with arms, ammunition and accoutrements, and shall receive the same pay and rations as is directed by the laws now in force.

Militia may be called out.

(See 1798, c. 494—1795, c. 444, s. 5.)

8. *And be it further enacted*, That the governor be and he is hereby authorised and required, in all cases of conspiracy or insurrection, to take such measures for the detection or suppression of the same as the public safety at the time may require.

Governor to take measures to suppress insurrection.

CHAP. 619.

An act to amend an act passed in the year 1800, (a) directing the manner of proceeding against the several officers therein mentioned.

(a See 1800, c. 559—1819, c. 1002.)

1. *Be it enacted, &c.* That from and after the passing of this act, when any sheriff, clerk or constable, within the several counties in this state, shall or may have received any money by virtue of their office or appointment, and shall fail to pay the same to the person or persons entitled to receive it, then and in that case, it shall and may be lawful for a justice of the peace to issue a warrant against them and their securities, and to give judgment for any sum not exceeding the jurisdiction of a justice of the peace, together with costs, and to award execution thereon, subject nevertheless to the right of appeal; and when it shall so happen, that any person's appointment as sheriff, clerk or constable shall expire, or they be removed from office before such warrant issues, the same remedy and proceeding may be had against them as if they actually were in office, any law to the contrary notwithstanding.

Justices of the peace to issue warrants against delinquent officers and their securities.

CHAP. 620.

An act to authorise an additional allowance to the person or persons who shall hereafter be necessarily employed as collector of arrears, and to repeal so much of the fourth clause of the second chapter of the act of 1792, as requires that all sales on executions issuing in behalf of the state, shall be made at the court-houses of the respective counties, and in term time.

(See 1793,
c. 383.)

Preamble

Whereas the beneficial operation of the act of 1793, chapter the 7th, providing among other things for the appointment of collectors of arrears, has so far exhausted the outstanding debts of this state, as to render the commissions allowed by the said act to the collectors of arrears no longer worth the attention and time of any person capable of performing the duties of that appointment and worthy of trust; and whereas for the want of the care and attention of such officers, the public executions are now again neglected and rarely returned satisfied, while the debtors move off, and the revenue of the state is thereby diminished:

Additional allowance to be made by the treasurer and comptroller.

1. *Be it therefore enacted, &c.* That for the year one thousand eight hundred and three, and thenceforward, the public treasurer, jointly with the comptroller, be, and they are hereby authorised and empowered to make to the person or persons who shall be necessarily employed to take charge of the public executions, such additional allowance over and above the commissions at present allowed them by law, as in their judgment they may be justly entitled to, due regard being had to the labour, expenses, industry and success of the person or persons so employed as aforesaid.

(a See 1792,
c. 360, s. 4.)

Part of the act of 1792, repealed.

2. *And be it further enacted,* That from and after the passing of this act, so much of the fourth clause of the second chapter of the act of one thousand seven hundred and ninety-two, (a) as requires that all sales to be made on executions issuing in behalf, and for the use of the state, shall be had at the court-houses of the respective counties to which such executions issue, and in term time, be and the same is hereby repealed and made void, and that for the future, sales shall be made on such executions at the respective court-houses of the counties to which they may issue; but it shall be immaterial whether they be made in or out of term time, the direction of the above recited clause to the contrary notwithstanding.

CHAP. 621.

An act giving further time for registering grants, proving deeds, mesne conveyances and powers of attorney, which have not been proven and registered within the time heretofore limited by law. (a) (a See 1800, c. 554—1804, c. 648.)

1. *Be it enacted, &c.* That all grants for lands which have not been registered within the time heretofore appointed by law, shall and may, within two years after the passing of this act, be admitted to registration, and shall be as good and valid as if they had been registered within the time heretofore allowed by law.

Two years further time allowed for grants.

2. *And be it further enacted,* That all deeds, mesne conveyances of lands, tenements and hereditaments, and all powers of attorney not already proved, acknowledged and registered, shall and may, within two years after the passing of this act, be acknowledged by the grantor or grantors, his or their agents or attornies, or be proven agreeable to law; and all deeds, mesne conveyances and powers of attorney, which shall be acknowledged or proven, and registered according to the directions and provisions of this act, shall be good and valid, and take effect as fully to the use and benefit of the grantees, their heirs or assigns respectively, as if such deeds, mesne conveyances and powers of attorney, had been acknowledged, proved and registered, agreeable to the directions of any law heretofore made and in force.

Also for deeds, &c.

CHAP. 622.

An act granting further time for proving and registering bills of sales and deeds of gift. (See 1799, c. 540, and 1803, c. 643.)

Be it enacted, &c. That all bills of sale taken, and deeds of gifts made, and not already recorded in manner required by law, shall have a further time of twelve months allowed for probate and for registration, and shall, when thus authenticated and perpetuated, be held and deemed as valid to all intents and purposes, as if they had been proved and registered within the time required by an act passed at Fayetteville in the year one thousand seven hundred and eighty-nine; any law, usage or custom to the contrary notwithstanding.

Twelve months longer time allowed.

CHAP. 623.

An act to prescribe the mode in which wills or deeds registered in other states, shall be admitted as evidence in this state.

Certified copies of wills or deeds from other states to be received in evidence.

(a See act Congress 1790, vol. 2, N. Ed. L. U. S. p. 102.)

Be it enacted, &c. That in cases where inhabitants of other states, by will or deed, devise or convey property situated in this state, and the original will or deed cannot be obtained to register in the county where the land lies, or where the property shall be in dispute, that a copy of the said will or deed (after the same has been proved and registered or deposited agreeably to the laws of the state where the persons died or made the same) being properly certified, either according to the act of Congress passed in May, one thousand seven hundred and ninety,(a) or by the proper officer of the said state, and the further testimonial of the governor or commander in chief of said state, that the person certifying is the proper officer or duly authorised by law; that then and in such case, the said copy shall be read as evidence in the courts of this state, and shall be admitted in the same manner as a copy from any of the register's or clerk's offices therein.

CHAP. 624.

An act to amend the quarantine laws of this state.(a)

(a See 1793, c. 379, 1817, c. 946.)

Preamble.

Whereas by an act of the General Assembly, passed in the year one thousand seven hundred and ninety-three, it is made necessary that three commissioners of navigation, or three justices of the peace, should issue the necessary orders, commanding any vessel having a contagious disease on board, or coming from a place where such disease prevailed, to perform quarantine. And whereas it sometimes happens, that neither three commissioners, nor three justices of the peace, can be conveniently, and in time, procured for the purpose of enforcing the above recited act, whereby the same is frequently evaded; For remedy whereof,

What officers may enforce the quarantine law.

1. *Be it enacted, &c.* That from and after the passing of this act, it shall and may be lawful for any one commissioner of navigation, with two justices of the peace, or any one justice of the peace with two commissioners of navigation, to enforce and cause to be executed the

above recited act, so far as regards the issuing of orders to compel vessels to perform quarantine.

2. *And be it further enacted*, That from and after the passing of this act, the commissioners of navigation in the several ports of this state, shall be and they are hereby authorised and empowered to appoint port-physicians, and to regulate and prescribe the fees to which they shall be respectively entitled, according to the different quarantine stations which they shall be bound to attend for the purpose of inspecting vessels, as required by the before recited act, and giving certificates of their situation and condition in regard to the health of their respective crews and passengers.

Port-physicians may be appointed.

CHAP. 625.

An act to fix the permanent residence of the governor of this state.

1. *Be it enacted, &c.* That from and after the passing of this act, the governor for the time being, shall reside permanently at the city of Raleigh, during his continuance in office.

Governor to reside permanently at Raleigh.

2. *And be it further enacted*, That all acts and clauses of acts, coming within the purview of this act, be and the same are hereby repealed and made void.

Former acts repealed.

CHAP. 626.

An act to amend the several acts for regulating the pilotage and navigation of Cape Fear river.

1. *Be it enacted, &c.* That the commissioners of navigation for Cape Fear river, shall be and they are hereby authorised and empowered to appoint a clerk, who shall be styled, Clerk for the Board of Commissioners; and whose duty it shall be to keep a book, and record therein all the orders, rules and proceedings of the said board of commissioners.

Commissioners to appoint a clerk, &c.

2. *And be it further enacted*, That the said commissioners, a majority of whom may form a board, shall have power and authority to hear and decide on all matters of dispute between any pilot and master of a vessel, or between the pilots themselves, respecting the

Powers and duties of the commissioners.

pilotage of vessels : and any one of said commissioners may issue a warrant against any master of a vessel, for the recovery of any pilotage, and against any pilot for the recovery of any demand one pilot may have against another, relative to pilotage, and for the recovery of any forfeiture or penalty incurred by any of the acts of the General Assembly, for regulating the pilotage of Cape Fear river ; which warrant shall be directed to the sheriff or any constable of New-Hanover county, who are hereby respectively directed and enjoined to obey and execute the same, and all other process authorised by this act ; and on any warrant issued as aforesaid, any one of the said commissioners may give judgment, for any sum not exceeding twenty pounds, and may issue execution thereon, in the usual manner of issuing execution on judgments given by justices of the peace ; and any execution so issued shall and may be levied and satisfied agreeably to the rules and regulations prescribed for the levy of, and sale under other executions, issuing under judgments had before justices of the peace as aforesaid ; and any commissioner, before whom any warrant is tried, shall have power and authority to summon witnesses, and administer an oath, under the rules and regulations prescribed by law, in cases of trials before justices as aforesaid.

No stay of execution on judgments for pilots or masters.

Appeals allowed.

3. *And be it further enacted*, That if any pilot shall obtain a judgment before any justice of the peace, or before any commissioner, against any master of a vessel for pilotage, compensation or detention, or against any other pilot for any forfeiture or penalty, payable to him by any act of the General Assembly ; or if any master of a vessel shall obtain any judgment as aforesaid, against any pilot, for any forfeiture or penalty, made payable to him by any law of this state, there shall be no stay of execution : *Provided always*, That if any party shall consider himself aggrieved by any judgment as aforesaid, he may appeal to the ensuing county court of New-Hanover ; but if any judgment given against any defendant, shall be affirmed in the county court, and it shall be the opinion of said court, that the said appeal was prayed for, and obtained for the purpose of delay, the said court shall order and adjudge the said defendant to pay at the rate of twenty per cent. on the amount of the original judgment, which shall be added thereto, and execution shall and may issue for the

whole amount, as in other cases of judgments in said court.

4. *And be it further enacted*, That the said commissioners shall be, and they are hereby authorised and empowered to make and establish such rules and regulations respecting the arrangement and station of the pilots, and respecting the rates of pilotage, as to them shall seem most advisable and advantageous for the navigation of said river, and shall and may lay and impose such reasonable fines and penalties for the purpose of enforcing the execution of such rules and regulations as they may, from time to time, ordain and establish, for the better regulation of the pilotage and navigation as aforesaid: and they are hereby authorised and empowered to make, ordain and establish, from time to time, such rules and regulations as to them shall seem advisable, for the purposes aforesaid, not inconsistent with the constitution of the state; and all fines annexed to said rules and regulations, shall and may be recoverable before any justice of the peace of New-Hanover county, or any commissioner of navigation, in the name of the board of commissioners, who are hereby authorised to warrant therefor; and when recovered shall be applied to the repair of public wharves and docks, and improvement of the channel of said river.

Commissioners
have power to
make rules and
regulations, &c.

5. *And be it further enacted*, That the said commissioners shall and may appoint a harbour-master for the port of Wilmington, and prescribe the duties of his office, who shall be entitled to receive from the master of each vessel that shall enter said port, the sum of ten shillings.

May appoint a
harbour-master.

Read three times and ratified in General Assembly, }
this 17th day of December, Anno Dom. 1802. }

J. RIDDICK, S. S.

S. CABARRUS, S. H. C.

James Turner,
Esq. governor.

At a General Assembly, begun and held at Raleigh, on the 21st day of November, in the year of our Lord one thousand eight hundred and three, and in the twenty-eighth year of the independence of the said state.

CHAP. 627.

(a See 1794, c.
414, 1802, c.
609.)

An act to extend the jurisdiction of a single justice, and to amend the several laws in force in this state relative to the recovery of debts before a justice of the peace.(a)

Preamble.

Whereas it hath been found by experience that the extension of the jurisdiction of a single justice of the peace has contributed greatly to the advantage of the good citizens of this state; it being reasonable therefore to presume that a further extension to the amount of thirty pounds, (equal to what is usually called the book debt law) would add to the advantages already felt.

Debts of 30l.
cognizable by
one justice.
(b See 1804, c.
650, s. 1.)

1. *Be it therefore enacted, &c.* That from and after the first day of March next, all debts and demands of thirty pounds(b) and under, for a balance due on any specialty, contract, note or agreement, or for goods, wares and merchandize sold and delivered, or for work and labour done, or for specific articles, whether due by obligation, note or assumpsit, or for any judgment which may have been granted over twelve months by a single justice of the peace and no execution have issued thereon, or for any forfeiture or penalty incurred by virtue of any act of the General Assembly, are hereby declared to be cognizable and determinable by any one justice of the peace out of court; subject nevertheless to the right of appeal, as in similar cases, who may give judgment thereupon, and award process of execution for the amount of judgment, interest and costs, in the same manner as in similar cases is already or may hereafter be provided for: *Provided always*, That the stay of execution on all sums over twenty, and not exceeding thirty pounds, except as herein excepted, shall be had in the same manner and for the same time as is provided already by law for all sums over ten, and not exceeding twenty pounds.

No stay of execution allowed on a former judgment.

2. *And be it further enacted*, That in all cases where the evidence of the debt on which a judgment may be founded, shall be that of a former judgment of twelve months standing, no stay of execution whatever shall be allowed.

And whereas doubts have arisen whether any investigation or decision can be legally had on a warrant in any case after thirty days from the date thereof, although the same may have been executed and returned in due time, and for sufficient cause shewn postponed by the justice before whom it was so returned; For remedy whereof,

3. *Be it enacted, &c.* That in future it shall be in the power of any justice of the peace within this state, on sufficient cause shewn on oath, by either plaintiff or defendant, their agent or attorney, to postpone from time to time, or continue for trial, any civil matter or case that may come before him. *Provided* such postponement or continuance shall in no case exceed thirty days; and it shall be lawful for any justice of the peace to act on said postponement or continuance, the original date of the warrant exceeding thirty days notwithstanding.

Postponement
allowed.

4. *And be it further enacted,* That all judgments given by a justice of the peace shall bear six per cent. interest on the original sum until the same shall be actually paid or otherwise settled, any law to the contrary notwithstanding.

Interest on
judgments.

5. *And be it further enacted,* That whenever a judgment shall be given in the absence of either plaintiff or defendant, by any justice of the peace, whether execution hath been issued or not, that on application of such absent party, his or her agent or attorney, within ten days after the date of said judgment, to the justice who awarded the same, on sufficient cause shewn on oath or affirmation, why he, she or they could not attend the day of trial, it shall be the duty of said justice, to issue his order to the plaintiff, defendant, or officer, as the case may require, in possession of the papers, relative to the suit, to forbear any further proceedings thereon, and immediately to bring the same before him or some other justice for reconsideration, provided that the applicant shall give sufficient security for his appearance; it shall also be the duty of the justice aforesaid to issue his summons directed to some proper officer to cause the parties, with their witnesses, to appear before him, or some other justice, at such time and place, not exceeding thirty days, as he may think proper, where the case shall undergo a fair investigation, and be subject to the same proceedings as if it had never been acted on; (a)

Proceedings to
be had when
judgment is gi-
ven in absence
of the parties.

(a See 1802,
c. 609, 1812,
c. 832.)

shall receive for his trouble in executing the same, the same fees he is entitled to for summoning witnesses, to be taxed on the party at whose instance it issued.

Executions returned in three months.

6. *And be it further enacted*, That from and after the aforesaid first day of March next, all executions issued by a justice of the peace shall be made returnable in three months from the date of said execution; and when any execution shall be returned, not fully satisfied and discharged, it shall and may be lawful for any justice of the peace for said county, to issue another execution for the sum so remaining due on the former execution.

Deposition of inhabitants of another county to be admitted.

7. *And be it further enacted*, That the deposition of any person who is an inhabitant of another county or state, other than that in which any suit may be depending on a warrant before a justice of the peace, shall be admitted on trial of such warrant to be read as evidence; *Provided always*, That either plaintiff or defendant shall in all cases respecting depositions be governed by the same rules, regulations and restrictions, as are used in taking depositions in other cases in the courts of law within this state, so far as respects time and notice: *And provided also*, That such depositions may be taken by one justice of the peace, when the adverse party may attend and cross examine.

Former acts repealed.

8. *And be it further enacted*, That all acts and clauses of acts which come within the meaning and purview of this act, are hereby repealed and made void.

CHAP. 628.

(a See 1811, c. 817.)

An act to authorise the state of Tennessee to perfect titles to lands reserved to this state by the cession act.(a)

State of Tennessee to issue grants, &c.

(b See act of Congress, 1806, April, 18th, 4th vol. N. Ed.; L. U. States, p. 39.)

Be it enacted, &c. That upon this act being agreed to, and ratified by the state of Tennessee, as an agreement between this state and the said state of Tennessee, and upon the assent of Congress being obtained thereto,(b) the said state of Tennessee shall have full power and authority, and is hereby vested with full power and authority to issue grants, and perfect titles, to all claims of land lying in the said state, which under and agreeably to an act, entitled "An act for the purpose of ceding to the United States of America, certain western lands therein described," passed by the Legis-

lature of this state, in the year one thousand seven hundred and eighty-nine, remained and were reserved by the said act, to be issued and perfected by this state, in as full and ample a manner as the state of North-Carolina possessed the same, under the following conditions and restrictions, to wit :

That no grant shall be issued by the said state for any lands which, by the aforesaid act, and the laws of this state then in force, or made in pursuance thereof, since the passing of said act, might not have been issued by this state. Nor shall any grant be valid, but those issued on bona fide claims, and within the provisions and reservations of the before recited act, and such as would have been valid, if the same had been issued by this state under the act aforesaid, and the laws then in force, and such as have been since made in pursuance of said act of cession.

No grant to issue which might not have been issued by this state

That in entering and obtaining titles to lands, no preference shall be given to the citizens of Tennessee over citizens of any other state, claiming under this state; nor shall any occupancy or possession give preference in entering or obtaining titles, so as to injure or take away the right of any person now claiming by entry, grant or otherwise under this state.

No preference to be given to citizens of Tennessee.

That no grant shall issue to Martin Armstrong, or his deputies, or any person or persons claiming under him or them, for any services as surveyor, until a final settlement between the state of North-Carolina and the said Armstrong shall be made; after which grants shall issue for such lands as he may be entitled to.

No grants to Martin Armstrong, &c.

That this state reserves exclusively the right of issuing military warrants.

Military warrants.

In issuing grants on military warrants, entries made in Martin Armstrong's office, until he was suspended by this state, shall be preferred, and next to those, the entries which have been made in the office of William Christmass, who is hereby continued and confirmed as the surveyor of the lands on all entries in the entry-taker's books in his possession, not heretofore surveyed, during his good behaviour. Also that John Brown be continued and confirmed as the surveyor of the lands, in the eastern district, in room of Stokely Donelson, during his good behaviour. That the said William Christmass and John Brown enter into bond in the sum

What grants shall have preference.

of five thousand pounds each, with sufficient security, payable to the state of Tennessee, for the faithful discharge of the duties reposed in them.

Secretary of state to issue grants until the ratification.

That the secretary of this state shall continue to issue grants upon all surveys returned, or that shall be returned to his office, before the ratification of this agreement or compact between the two states, by the state of Tennessee.

Warrants and plats to be delivered to the Tennessee agent.

And in order that the state of Tennessee may possess the information necessary to the detection of fraud in obtaining claims and grants to lands lying in that state, and for the purpose of facilitating the execution of good titles, all warrants and plats upon which grants shall not have issued, at the time of the ratification of this compact by the state of Tennessee, shall be delivered to any agent or agents of that state, duly authorised for that purpose; and that the agent or agents of the said state be permitted to take copies of all grants, or any other paper or papers which concern the land claims within the state of Tennessee, in the secretary's office of this state: And notwithstanding such copies may be received as legal evidence in the state of Tennessee, it is always to be understood as a provision, that any transcript from the said office of this state, shall, at all times hereafter, be received as evidence in the said state of Tennessee.

When this act shall take effect.

That so much of this act as relates to the taking of copies by the agent or agents of Tennessee, from the secretary's office, shall take effect from the passage hereof. *Provided*, That none of the said copies shall be removed or taken out of the office of the secretary, until the governor of this state shall be notified by the governor of the state of Tennessee, of the ratification of this act on the part of the state of Tennessee, and until the governor shall also receive a notification of the assent of the Congress of the United States, being obtained thereto.

Books and papers to be under the care of the secretary.

That in taking transcripts by the agent or agents of Tennessee from the said office, the books and papers so to be transcribed, shall always be under the care of the secretary of this state; and that as a compensation for such care and trouble, the state of Tennessee shall pay the said secretary six hundred dollars, in two instalments: The first instalment of three hundred dollars to be payable within six months after the ratification of

this act on the part of the state of Tennessee ; and the second instalment whenever the said state of Tennessee shall procure by its agent or agents transcripts of the grants issued by the state of North-Carolina, for lands lying in the state of Tennessee, as aforesaid, and such other papers as he may deem necessary relative to the landed property of said state.

CHAP. 629.

An act to ratify an amendment of the Constitution of the United States. (See amendments to the Const. U. States, art. 12, ante. p. 75.)

Whereas the Senate and House of Representatives of the United States of America, in Congress assembled, having at the session which commenced at the city of Washington, in the territory of Columbia, on the seventeenth day of October, one thousand eight hundred and three, being the first session of the eighth Congress, *Resolved*, two-thirds of both houses concurring, that the following paragraph, as a substitute and in lieu of the third paragraph of the first section of the second article, be proposed to the Legislatures of the several states as an amendment to the constitution of the United States, which, when ratified by three-fourths of the State Legislatures, to be valid to all intents and purposes as part of the said constitution : Which amendment is in the following words, to wit : “ The electors
 “ shall meet in their respective states, and vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves. They shall name in their ballots the person voted for as president, and, in distinct ballots, the person voted for as vice-president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each ; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the president of the Senate. The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for president shall be the

Amendment prescribing the rule by which electors shall vote for president and vice-president of the U. States.

Duty of president of the senate on receiving the list.

If no one has a majority, then House of Representatives to choose, &c.

Of the vice-president, &c.

The amendment ratified.

“ president, if such number be a majority of the whole
 “ number of electors appointed ; and if no person have
 “ such majority, then from the persons having the high-
 “ est numbers, not exceeding three, on the list of those
 “ voted for as president. The House of Representa-
 “ tives shall choose, immediately, by ballot, the presi-
 “ dent ; but in choosing the president, the votes shall
 “ be taken by states, the representation from each state
 “ having one vote, a quorum for this purpose shall
 “ consist of a member or members, from two-thirds of
 “ the states, and a majority of all the states shall be
 “ necessary to a choice ; and if the House of Repre-
 “ sentatives shall not choose a president, whenever the
 “ right of choice shall devolve upon them, before the
 “ fourth day of March next following, then the vice-
 “ president shall act as president, as in the case of the
 “ death or other constitutional disability of the president.
 “ The person having the greatest number of votes as
 “ vice-president shall be the vice-president, if such
 “ number be a majority of the whole number of electors
 “ appointed ; and if no person have a majority, then
 “ from the two highest numbers on the list, the Senate
 “ shall choose the vice-president. A quorum for the
 “ purpose, shall consist of two-thirds of the number of
 “ senators, and a majority of the whole number shall
 “ be necessary to a choice ; but no person constitu-
 “ tionally ineligible to the office of president, shall
 “ be eligible to that of vice-president of the United
 “ States :”

Be it therefore enacted, &c. That the said amendment agreeable to the fifth article of the original constitution, be held and ratified on the part of this state, in lieu of the aforesaid third paragraph of the first section of the second article as an amendment of the constitution of the United States of America.

CHAP. 630.

(See 1804, c. 656.)

An act for establishing a Mutual Insurance Society against fire on buildings, goods, and furniture in this state.

Preamble.

Whereas the ruin occasioned to individuals by the ravages of fire has in most countries, produced associations for the purpose of insurance, by which means the

losses, which would be otherwise insupportable to the sufferers, are rendered more easy to them, and not more burthensome to the insurers than might be reasonably expected, and would be readily assented to, from a comparison of the moderate contributions, with the advantage of having the destroyed property replaced. And whereas the utility of such an institution is increased, in proportion to the extent of its operation, and the number of its members.

1. *Be it enacted, &c.* That an insurance be established, to be called and known by the name of "The Mutual Insurance Society, against fire on buildings, goods and furniture, in the state of North-Carolina:" The principles whereof shall be, that the citizens of this state, or others, owning property within the same, may insure their buildings, goods, and furniture against losses and damages occasioned, accidentally, by fire, and that the insured pay the losses and expenses, each his share, according to the sum insured: And that books be opened in different parts of this state, under the direction of John Haywood and Joseph Gales at Raleigh; of David Tate and John H. Stevely at Morganton; of John Steele and Lewis Baird at Salisbury; of William Norwood and William Whitted at Hillsborough; of John Eccles and John Hogg at Fayetteville; of Goodorum Davis and Abraham Hodge at Halifax; of Josiah Collins, senr. and Samuel Tredwell at Edenton; of John Devereux and Francis X. Martin at Newbern; of Joshua G. Wright and George Hooper at Wilmington, for receiving the subscriptions for insurance against fire on buildings, goods and furniture in the state of North-Carolina; such books to be opened on the first day of February next, and kept open until the society shall otherwise direct. That on the first day of May next returns shall be made, by the several persons heretofore named, to the said John Haywood and Joseph Gales at Raleigh, of a transcript of the amount of the subscriptions made on their respective books, distinguishing, in such returns, what amount is on buildings, goods and furniture respectively; and on the event of the sum so subscribed, exceeding the sum of three hundred thousand dollars, it shall be the duty of the said John Haywood and Joseph Gales to give public notice thereof, in the State Gazette, and to appoint a meeting of the subscribers in person, or by proxy (constituted by delivery of the certificate

An insurance called the Mutual Insurance Society.

Books to be opened.

On the first February.

Returns on the 1st of May.

If 300,000 dollars subscribed.

General meet-
ing on the 16th
June.

Subscribers in-
corporated.

of subscription, the production of which shall be deemed sufficient, until other provision be made by the society) in the city of Raleigh, on the sixteenth day of June next; and if the subscriptions at or before the said meeting, or so soon thereafter as they shall amount to the said sum of three hundred thousand dollars at least, the said subscribers shall be considered as a body politic, under the name of "The Mutual Insurance Society, against fire on buildings, goods, and furniture in the state of North-Carolina," and, by that name, shall have perpetual succession, and a common seal; and may sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in any court of law or equity in this state, or elsewhere, and may buy and sell, receive subscriptions for insurance to any amount, purchase and hold any real or personal estate in possession or action, reversion or remainder, for the benefit of the society, and for the more effectually enabling of them to fulfil the objects for which it is formed; but neither the subscribers, their agents, nor any one or more of them, shall be liable to be sued as individuals, for any matter done by the said society; and each person, at the time of subscribing, shall receive a certificate thereof paying therefor twenty-five cents.

Rules and regu-
lations to be
formed.

2. *And be it further enacted*, That a majority of any number of members, not less than one third in number or value, shall have power, from time to time, to frame and establish such rules and regulations, as to them shall seem meet, for the said society, and to alter and amend them at pleasure, which rules and regulations shall be binding upon the members thereof, to all intents and purposes in law and equity; to fix the premiums, according to certain rates of hazard, to be paid by the persons insured; and to elect a president, directors, a cashier general and any other officers.

Officers to be
elected.

President and
directors to fix
the quota.

3. *And be it further enacted*, That the president and directors, or one-third of them, shall have power, according to the rates of premiums, to fix the quotas to be paid by the persons insured, for the purpose of making reparation to the injured, who shall be proved to have sustained loss or damage by fire, and have not directly or indirectly wilfully occasioned the fire; and also for the purpose of raising and keeping up a fund, that may be deemed sufficient to pay the annual losses and expenses.

4. *And be it further enacted*, That the property insured (but none other) shall stand pledged, and engaged as a security, and shall be subject to be sold, if necessary, for the payment of any quota ; that in case of a mortgage, or other transfer of insured property, the same shall continue equally liable for the payment of the quotas, as if the right thereof had remained in the original owner ; but the mortgagee, or other transferee, shall be entitled to receive from the seller an endorsement of the policy of insurance, and to recover from him any sums of quotas, which may be due from the seller, at the time of such sale, and shall be decreed to be paid out of the property insured, and shall be actually paid. That the said mortgagee or other transferee, his heirs, executors, or administrators, shall also be liable for any quota becoming due after such mortgage or transfer ; that any quota, or part thereof, due at any time, by any delinquent subscriber or member, may be recovered on the motion of the cashier of the said society, before any court of record within this state, giving such previous notice to any such delinquent subscriber or member, as the society, by their rules, may prescribe, and such court shall have jurisdiction to hear and determine the same, and to cause their judgments to be enforced with costs, by any legal execution, saving to any person against whom a motion shall be made, the right of a trial by jury, if he shall desire it. That in any action, motion, or suit, instituted against any person charged to be a subscriber or member, for the recovery of a quota, due from him to said society, any copy from the books, papers, or records of the said society, as far as such copy relates to the delinquent member or subscriber, certified by the agent general or cashier upon oath, and signed by the president, or, in his absence, by any two directors, under the seal of said society, shall be received as evidence of his subscription and declaration, and have as full faith and credit in all the courts of this state, as if the originals were produced. And the agent general and cashier shall, at all times, be deemed competent witnesses, notwithstanding any allegation of interest, arising from the allowances made them for their services. That upon any judgment or decree for a default in paying a quota, interest, at the rate of six per cent. per annum, until paid or discharged, shall be included, and the recovery

Property insured to stand pledged.

Quotas to be recovered on motion of the cashier.

Copy of the records of the society to be read as evidence.

Agent general and cashier competent witnesses.

Interest to be received on unpaid quotas.

Proceedings to
be had against
insured pro-
perty. -

thereof shall be enforced, in the same way, and chargeable upon the property insured, in the same manner as the principal sum itself. That whenssoever it shall be necessary to resort to the property insured, the same proceedings shall be had against the persons who hold the fee simple thereof, as in the case of the delinquency of any subscriber, as above provided for, infancy or coverture notwithstanding; and in any cause arising under this act, such proceedings shall be had by the direction of the court, as justice will permit; that any widow, tenant by courtesy, or other person, having a less estate than a fee simple in the property insured, shall pay a reasonable proportion of any quota incurring in their life time, to be adjusted by the president and directors on application. That as long as there shall be a default in the payment of a quota, the property shall cease to stand insured: but upon the payment of the quota, the insurance, which may have been discontinued, shall be revived; but that a person subscribing and not making a declaration, shall forfeit two per centum on the amount of his, her, or their subscriptions.

Buildings held
by tenants for
life, &c.

5. *And be it further enacted*, That buildings, held by tenants for life, or years, widows in right of their dower, and by orphans, may be insured in the aforesaid society. *Provided*, That the declarations for insurance shall be signed by the tenants for life, or years, or widows, and the guardians or trustees of such orphans as the case may be, which declarations for insurance so signed, shall be binding on such buildings: And the persons who have signed such declarations and their representatives, and particularly on the actual owners of such property, in the same manner as if such declarations had been signed by the owners, in fee simple, of such property; subject however to the following provisions, limitations, and restrictions. In case the house of a tenant for life be destroyed by fire, after insurance, such tenant for life shall annually share from the said society, during his or her life, the interest accruing on the principal sum of the loss insured, and the principal money shall be paid, after the death of such tenant for life, to the person or persons who are entitled to such house or houses, in reversion or remainder; and in case such buildings be the property of an infant, the principal money shall be paid to the guardian or trustee of such infant. *Provided always*, That the society may make and adopt such

other rules, in the cases of buildings of tenants in possession and expectancy, as to them may seem just and proper.

6. *And be it further enacted*, That any person, whose property stands insured, in conformity with the rules and regulations of the said society, shall have the same mode of recovery against them by motion, as is herein before given to them against delinquents. *Provided always*, That all suits against the society, shall be brought in the county court of Wake; that it shall be lawful for the said society, to require a greater number of subscribers or members, to constitute a meeting, on subjects deemed by them peculiarly important, than the number herein before mentioned. That, in case no proxy is appointed for any meeting of whatsoever number it may consist, the senator of the county, or representative of the town, and for want of such senator, the senior members of the House of Commons, from such county, may act as such proxy. As there may be persons who will not wish to join the mutual concern, this Mutual Insurance Society shall be at liberty to insure the property of such persons, on the terms and conditions they may agree upon.

This act shall commence and be in force from and after the passing thereof.

The insured to recover their losses by motion.

All suits against the society to be brought in Wake.

What shall be done where proxies are not appointed at a meeting.

The society may insure persons not in the society.

CHAP. 631.

An act appointing commissioners to extend the boundary line of this state, and the state of South-Carolina. (a)

(a See 1804, c. 654, 1806, c. 696, 1808, c. 738, 1813, c. 857, 1814, c. 880, 1815, c. 885.)

Whereas it is of high importance that the limits of this state should be accurately defined; and whereas all former laws have failed to have the desired effect:

1. *Be it therefore enacted, &c.* That there shall be appointed by joint ballot of both houses of the General Assembly, and commissioned by the governor, three commissioners, to meet the commissioners who already are, or hereafter may be appointed by the state of South-Carolina, at such time and place as the executives of the two states shall or may direct, and with them to settle all and singular the differences, controversies, disputes and claims that may subsist between this state and the state of South-Carolina; and to fix and estab-

Three commissioners to be appointed.

To settle differences.

Titles of land
not to be affect-
ed.

Allowances to
be made the
commissioners.

To surveyors,
markers, &c.

Governor to fill
vacancies, &c.

lish permanently the boundary line between this state and the state of South-Carolina, and the same to mark and ascertain as distinctly as may be, as far as the eastern boundary of the territory ceded by the state of North-Carolina to the United States: *Provided nevertheless*, That the extension of the said line shall not affect the titles of any person or persons to the lands entered in either of the said states; and this state will, at all times hereafter, ratify and confirm all and whatsoever the said commissioners, or a majority of them, shall do in and touching the premises by virtue of this act, and the same shall be binding on this state.

2. *And be it further enacted*, That the commissioners appointed in pursuance of this act shall, for their personal services, be allowed the sum of forty shillings per day, and forty shillings for every thirty miles in travelling to and from the business contemplated by this act; and they shall make a return of their proceedings to the next General Assembly, after the time they shall have perfected the purposes of their appointment: And further, said commissioners are hereby authorised and empowered to employ one or more surveyors, and such number of markers as they or a majority of them, shall deem necessary; and there shall be allowed to each and every surveyor appointed by the said commissioners, forty shillings per day for their services, and forty shillings for every thirty miles in travelling to and from the duties imposed upon them by this act; and to each marker or chain-carrier twenty shillings for every day they shall be employed in running and marking the lines as aforesaid, and twenty shillings for every thirty miles in travelling to and from the duties imposed upon them by this act.

3. *And be it further enacted*, That in case of death, resignation or refusal to act, of any of the commissioners herein appointed, the governor of the state is hereby empowered to appoint and fill up any vacancy occasioned in manner as aforesaid; and that the governor for the time being, shall, as soon as may be, after the ratification of this act, transmit a copy thereof to the executive of the state of South-Carolina, accompanied with a request that the state of South-Carolina should co-operate without delay with this state in effecting the purposes of this act.

4. *And be it further enacted,* That the governor shall issue his warrant upon application of said commissioners declaring that they are ready and about to proceed to the running of the said line, on the treasury for the sum of two hundred pounds, and such further sum as the governor may deem necessary for carrying this act into effect. Governor to issue his warrant on the treasury.

5. *And be it further enacted,* That all former acts and parts of acts coming within the meaning of this act, are hereby repealed and made void. Former acts repealed.

CHAP. 632.

An act to authorise the defendant on an indictment for a libel, to give the truth in evidence.

Be it enacted, &c. That from and after the passing of this act, it shall and may be lawful for every defendant, who shall be charged by indictment with the publication of a libel, to prove on the trial for the same, the truth of the facts alleged in the bill of indictment; and upon the introduction of testimony, if it shall appear to the satisfaction of the jury, that the facts are true, with the publication whereof the defendant stands charged, such evidence shall be deemed to be a complete justification of the charge, any law, usage or custom to the contrary notwithstanding. Defendants may prove the truth of facts alleged in bill of indictment as a libel. And if true shall be deemed a complete justification.

CHAP. 633.

An act to amend the forty-first section of an act of the General Assembly, entitled "An act for establishing courts of law, and for regulating the proceedings therein." (a) (a See 1777, c. 115, s. 41.)

Whereas the said section frequently operates much to the injury of the citizens of this state, and other suitors in the courts of law, by requiring that ten days notice shall at all times, and in all cases, be given of the time and place of taking the depositions of persons about to leave the state: For remedy whereof, Preamble.

Be it enacted, &c. That so much of the forty-first section of the above recited act as requires that ten days notice shall be given to the adverse party, of the time and place of taking the depositions of persons about to Part of the 41st section of the recited act repealed.

Depositions of person in dangerous health, &c. may be taken on giving notice to adverse party.

leave the state, be and the same is hereby repealed; and from and after the passing of this act, it shall and may be lawful to take the depositions of persons in a dangerous state of health, or about to leave the state, under the rules and regulations prescribed by said forty-first section of said recited act, on giving to the adverse party or parties the following notice of the time and place of taking the same, to wit, in all cases where he, she or they do not reside, or is or are not more than ten miles distant, three days; in all other cases, one day more for every additional ten miles which the said party or parties may be distant from the place of taking said depositions.

CHAP. 634.

An act to amend an act passed in December, one thousand eight hundred and two, entitled "An act to amend the sixth section of an act, passed at Raleigh, in the year one thousand eight hundred and one, entitled, "An act to amend the several land laws of this state."(a)

(a See 1801, c. 569.)

Preamble.

Whereas it may happen that persons who have made entries of land in the years one thousand eight hundred, one thousand eight hundred and one, and one thousand eight hundred and two, may not have it in their power to pay the purchase money for the same into the treasury, by the twentieth day of December, one thousand eight hundred and three, as by law required, and thereby be injured by their entries lapsing: For remedy whereof,

1. *Be it enacted, &c.* That all claimants of entries of lands made in the years one thousand eight hundred, one thousand eight hundred and one, and one thousand eight hundred and two, who shall not have paid for the same before the twentieth day of December, one thousand eight hundred and three, shall have until the twentieth day of December, which will be in the year one thousand eight hundred and four,(b) to pay the purchase money into the treasury for the same; and all entries so paid for are declared to be as good and valid in law, as if the same had been paid for, according to the fifth section of an act, passed in the year one thousand eight hundred and one, entitled "An act to amend the several land laws in this state," or according to any other act. And the said enterers shall, within two years after the

Farther time allowed for the payment of purchase money of lands.

(b See 1804, c. 653, s. 1.)

said twentieth day of December, one thousand eight hundred and four, perfect their entries by grant. And all entries not perfected by grant within the time aforesaid, shall be deemed lapsed, and shall revert to the state, any thing to the contrary notwithstanding. *Provided always*, That every person shall be at liberty to pay for and secure as far as six hundred and forty acres by him or her entered, either singly or jointly with others, in the years aforesaid, and no farther.

All entries not perfected by grant in due time to lapse.

Persons allowed to pay for 640 acres and no farther.

2. *And be it further enacted*, That this law shall be in full force from the day of the ratification thereof.

CHAP. 635.

An act to repeal so much of an act passed in the year of our Lord one thousand seven hundred and seventy-seven, entitled, "An act for appointing sheriffs and directing their duty in office," (a) which requires sheriffs to obtain commissions from the governor, previous to their entering on the duties of their office; and to direct the manner in which they shall be commissioned in future.

(a See 1777, c. 118.)

1. *Be it enacted, &c.* That so much of the first section of the above recited act, as directs sheriffs to obtain commissions from the governor previous to their entering on the duties of their office, be and the same is hereby repealed and made void.

Provision in former act repealed.

2. *And be it further enacted*, That all sheriffs hereafter appointed, giving bond and security as heretofore, shall be fully empowered to enter upon the duties of their office, on obtaining a certificate from the clerk of the county in which they reside, attested by the chairman of the court.

Certificate from the clerk of the county sufficient.

3. *And be it further enacted*, That all sheriffs who have heretofore failed to obtain a commission from the governor, as by former laws required, be and he is hereby exonerated and fully discharged from all fines and forfeitures which have or might accrue in consequence thereof, and that all acts done by them, or any of them, in the office of sheriff, according to the duties of their office, be and the same are hereby rendered valid, any law to the contrary notwithstanding.

Acts of former sheriffs validated.

CHAP. 636.

An act to facilitate the division of lands.

(See 1789, c. 309.)

Means to be taken to give notice to co-tenant.

Be it enacted, &c. That in all cases in which a tenant in common of any piece, tract or lot of land, shall be absent out of the state, it shall be lawful for his co-tenant, desirous of having said land divided, to give notice of such his intention, under an order of the court in which the petition shall be filed, for six weeks successively, by advertisement at the court-house, or three different places in the county, and in the State Gazette, and on proof thereof, the court shall proceed as if a copy of the petition and summons had been personally served.

CHAP. 637.

An act to amend the several land laws in this state, so far as respects surveys being made and returned into the secretary's office.

Preamble.

(a See 1802, c. 612.)

Whereas by an act of the General Assembly of this state, passed at the last session, (a) all lands entered previous to the first day of January, one thousand seven hundred and ninety-eight, that may have been paid for as by law directed, and not surveyed and returned into the secretary's office by the first day of January, one thousand eight hundred and four, are declared lapsed lands to the state, which in many instances will tend to the great injury of many of the good citizens of this state: For remedy whereof,

Further time allowed for surveying and returning lands.

(a See 1804, c. 652—right extended to October, 1808.)

Be it enacted, &c. That all bona fide entries of lands in this state made previous to the first day of January, one thousand seven hundred and ninety-eight, which have been paid for, shall have until the first day of December, in the year one thousand eight hundred and four, (a) to have said lands surveyed and returned into the secretary's office; and all such lands not surveyed and returned into the secretary's office, by the day aforesaid, shall become void, and are hereby declared lapsed lands to the state, and may thereafter be entered by any person as other vacant and unappropriated lands in this state, any law to the contrary notwithstanding.

CHAP. 638.

An act to authorise the secretary of state, to issue warrants and duplicates thereof.

Whereas the law enabling and authorising the secretary of this state to issue^(a) warrants to persons who were on the muster-roll, has expired the latter end of last session; and as the numerous applications to the General Assembly both for original and duplicate warrants, consume much time, both in obtaining documents from the secretary and canvassing the property of the respective claims:

(a See 1819, c. 992.)

Preamble.

1. *Wherefore be it enacted*, That the secretary be and he is hereby authorised to issue warrants in all cases to those who shall be legally entitled.

Secretary to issue warrants to all persons legally entitled.

2. *And be it further enacted*, That this act shall be in force from and after the ratification thereof.

CHAP. 639.

An act to empower the county courts to make allowance where lands are returned on the lists of taxable property by mistake or otherwise, so that a certificate from the clerk of the court may be allowed as lists of insolvents.

Whereas it often happens that persons are overcharged on their lists of taxable property, and do not discover the same until the clerks have made their returns to the comptroller of state,

Preamble.

Be it enacted, &c. That in future where it shall appear to the satisfaction of any of the county courts in this state, that any person or persons are charged with more land or polls on their list or lists of taxable property than he or they ought to pay for, the said court may order their clerk to give a certificate for the quantity of acres or polls so overcharged, which certificate shall be received by the treasurer of the state, in part of said tax from the sheriff of said county, any law to the contrary notwithstanding.

Remedy where a mistake in taking lists of taxables happens.

CHAP. 640.

An act to amend an act passed at Newbern, in the year of our Lord 1777, so far as respects the appointment of Rangers, entitled "An act to prevent abuses in taking up stray horses, cattle, hogs and sheep, and other things therein mentioned." (a)

(a See 1777, c. 119, s. 2.)

Preamble. Whereas by the above recited act, the respective county courts within this state can appoint only one ranger for their respective counties, which is found by experience to be inconvenient and troublesome: For remedy whereof,

(a See 1816, c. 901, s. 2.) *Be it enacted, &c.* That the respective county courts (a) in each county within this state, shall or may appoint one or more rangers for their respective counties, under the same rules, regulations and restrictions as are prescribed in the above recited act, any thing to the contrary notwithstanding.

One or more rangers may be appointed.

CHAP. 641.

An act to repeal that part of the first clause of an act of the Assembly of one thousand seven hundred and ninety-five, entitled "An act directing the manner in which the clerks of the several superior and county courts shall hereafter make their returns to the comptroller," that requires the clerks to make oath in open court. (a)

(a See 1795, c. 446, s. 1.)

Preamble. Whereas the above recited act makes it necessary that the clerks of the several courts within this state, should swear to their accounts in open court and have them subscribed by all the judges or justices present, and in many instances this is neglected to be done during the sitting of the court, and the returns thereby prevented from coming on to the comptroller's office in due time:

Returns of clerks to the comptroller may be sworn to before two justices. *Therefore be it enacted, &c.* That from and after the passing of this act, all returns of the clerks of the several courts within this state, hereafter made to the comptroller, may be sworn to before two justices of the peace out of court, which return, when sworn to as aforesaid, shall be considered as valid as those sworn to in open court: *Provided always,* That when he shall exhibit his return for probate, he shall produce the dockets of said court from which said return is made, for the inspection of the said justices before whom such probate is made.

CHAP. 642.

An act to amend the several laws now in force, to regulate and fix the prices for inspecting and coopering tobacco in this state. (See 1777, c. 120, s. 5.)

1. *Be it enacted, &c.* That from and after the passing of this act, the inspectors that are or shall be appointed to inspect tobacco at the several warehouses in this state, shall and may take the following fees, viz. for inspecting, turning up, coopering, finding nails, hoops, and issuing a note, for every waggon hogshead, the sum of seven shillings; and for each and every rolling hogshead, the sum of eight shillings, and no more. Inspector's fees.

2. *And be it further enacted,* That all acts and parts of acts, which come within the purview and meaning of this act, be and the same are hereby repealed and made void.

CHAP. 643.

An act giving further time for the probate and registration of bills of sale and deeds of gift. (See 1802, c. 622, 1805, c. 688.)

Be it enacted, &c. That all bills of sale and deeds of gift, not already proven and recorded, shall have a further time of two years allowed for the same; and that all bills of sale and deeds of gift proven and recorded in pursuance of this act, shall be valid to all intents and purposes, any law to the contrary notwithstanding. Further time of two years allowed.

CHAP. 644.

An act to direct in what manner the fees of a coroner on holding an inquest shall be paid. (For coroner's fees, see 1784, c. 223, s. 7.)

Be it enacted, &c. That hereafter, whenever an inquest shall be held, that the treasurer of the county wherein the same may happen, shall pay off the cost and charges of the same out of the county monies, any Treasurers of counties to pay the costs of an inquest.

law, usage or custom to the contrary notwithstanding.

Read three times and ratified in General Assembly, }
22d day of December, Anno Dom. 1833. }

JOSEPH RIDDICK, S. S.

STEPHEN CABARRUS, S. H. C.

Copy.—WILL. WHITE, Secretary.

James Turner,
Esq. governor.

At a General Assembly, begun and held at Raleigh, on the nineteenth day of November, in the year of our Lord one thousand eight hundred and four, and in the twenty-ninth year of the independence of the said state.

CHAP. 645.

An act to confirm a revisal of certain acts of Assembly.

Preamble.

Whereas the General Assembly of this state, at their last session passed a resolution in the following words: "*Resolved, That Francis Xavier Martin collect and revise the public acts passed since the publication of Judge Iredell's Revisal, to the end of the present session, inclusive; which said revisal shall connect the acts passed since Judge Iredell's, by notes and remarks adverting to such as appear to have been virtually repealed, and retaining such as are not expressly so, and cause his said revisal to be printed.*" And whereas in pursuance of said resolution, the said Francis Xavier Martin has collected and revised the said acts, caused them to be printed, and his revisal has been submitted to, and examined by, a committee of this General Assembly, and found correct,

Revisal approved.

Be it enacted, &c. That the said revisal be, and is hereby approved.

CHAP. 646.

An act to appoint and empower commissioners to contract with any person or persons for the purpose of opening and establishing a turnpike road to pass through part of the territory belonging to the Cherokee Indians.

Commissioners. 1. *Be it enacted, &c.* That from and after the passing of this act, John Forgy, John Welch, James M'Kee,

John M'Farland, Hugh Davidson, John Stevenson and Thomas Love, be, and they are hereby appointed commissioners, or a majority of them, to mark and lay off a road from the line that divides this state from the state of Tennessee, by an estimation about fourteen miles to where the same shall intersect with a road laid off by order of the county court of Buncombe, leading to Scott's creek.

2. *And be it further enacted*, That the said commissioners, or a majority of them, shall have full power and authority to contract with any person or persons for the purpose of opening and keeping the said road in repair, by the way of a turnpike, not exceeding fifteen years.

Power given them to contract.

3. *And be it further enacted*, That whenever the undertaker or undertakers of said road shall have completed their contract, to the satisfaction of the aforesaid commissioners, or a majority of them, that the first court which shall thereafter happen in the county of Buncombe, that a majority of the acting justices of the county court aforesaid, or any seven of them, shall proceed to rate the different tolls of said turnpike, and such toll, then rated, shall be permanent during the said term of fifteen years, entered into by the said undertaker or undertakers with the commissioners aforesaid, or a majority thereof.

When the road is completed, tolls to be fixed by Buncombe county court.

4. *And be it further enacted*, That the aforesaid undertaker or undertakers shall be under the directions of the county court aforesaid, as in case of overseers of public roads.

Undertaker to be under directions of said court.

5. *And be it further enacted*, That if in case any person or persons at any time should forcibly break through or round the said turnpike, to avoid payment of such toll or tolls, they shall forfeit the sum of forty shillings, recoverable before any justice of the peace in and for the county aforesaid, to the use of said owner or owners.

Forfeiture for avoiding payment of toll.

6. *And be it further enacted*, That if any person or persons falling of timber, or putting in other obstructions in the said road, or cutting paths or ways round the turnpike aforesaid, leading the same into the said road, as might tend to the damage of said undertaker or undertakers, shall forfeit and pay the sum of five pounds, recoverable before any justice of the peace of the county aforesaid, and applied as the above-mentioned fines.

Forfeiture for obstructing said road.

CHAP. 647.

(a See 1789, c. 305, the 6th sec. of which is omitted.) An act to amend and repeal in part, an act passed in the year one thousand seven hundred and eighty-nine, entitled "An act to establish an university in this state." (a)

Preamble.

Whereas by the sixth section of the before recited act, the board of trustees of the university are vested with the power of filling up any vacancy or vacancies which may happen in that body by the death, refusal to act, resignation or removal out of the state, of any of the trustees for the time being, or to appoint new trustees when a majority or any fifteen members of the board, may think proper. And whereas it would tend to render the institution more conformable to the wishes of the people, if the power of filling up such vacancy or vacancies, and making such new appointment or appointments, should be vested in the Legislature:

Sixth section repealed.

1. *Be it therefore enacted, &c.* That the said sixth section of the before recited act, be and the same is hereby repealed and made void.

When vacancies happen, General Assembly to supply them.

2. *And be it further enacted,* That whenever any vacancy or vacancies as aforesaid shall happen, that the General Assembly shall proceed to elect a proper and suitable person or persons to fill the same by joint ballot of both Houses, and it shall be the duty of the secretary of the board of trustees to make known to the General Assembly at each annual session such vacancies as may happen during their recess.

The General Assembly may also appoint additional trustees.

3. *Be it further enacted,* That the General Assembly shall, whenever they deem it expedient for the interest of the said institution, appoint as aforesaid any additional trustees which they shall think proper. *Provided always,* That the number of trustees shall at no time exceed eight in each superior court district, any law to the contrary notwithstanding.

When the law shall take effect.

4. *Be it further enacted,* That this law shall take effect from and after the ratification thereof.

CHAP. 648.

(b See 1802, c. 621—1806, c. 705.) An act giving further time (b) for registering grants, proving deeds and mesne conveyances.

Two years allowed for registration.

Be it enacted, &c. That all grants for lands entered under the present government, all deeds, mesne convey-

ances of lands, tenements and hereditaments, not already proved and registered, shall and may, within two years after the passing of this act, be admitted to registration, under the same rules and restrictions as heretofore appointed by law; and said grants, deeds, mesne conveyances of lands, tenements or hereditaments, shall be as good and valid as if they had been registered within the time heretofore allowed by law; any law, usage or custom to the contrary notwithstanding.

CHAP. 649.

An act to revive, amend and continue in force, certain acts for ceding to the United States the lands therein mentioned.

Whereas the times limited by the acts of one thousand seven hundred and ninety-four, and one thousand seven hundred and ninety-eight, for erecting fortifications on the lands thereby ceded, are expired; and the general government is proceeding without delay, to finish a fort on Cape Fear river, upon the public ground laid off agreeably to law, by the commissioners of Smithville: Preamble.

1. *Be it enacted, &c.* That the ground so laid off by the said commissioners, shall continue to be, and the same is hereby ceded to the United States of America, with the exclusive jurisdiction, except as is hereinafter excepted, of what is occupied by the fort and works, upon condition that the fort now building shall be completed on or before the first day of January, one thousand eight hundred and six. Ground laid off, ceded to the U. States.

And whereas also, it is expedient that the government of the United States should be encouraged to fortify the ports or harbours of this state, at the general expense:

2. *Be it further enacted,* That in case of purchase from a citizen or citizens thereof by the national government, of any points, head-lands or islands, which may be deemed necessary for the defence of any river or harbour in the state, that the said points, head-lands, or islands, with the exclusive jurisdiction thereof, except as is hereinafter excepted, be, and the same is or are hereby ceded to the United States of America, on condition that fortifications be erected on such places, within three years from the time of the purchase, and be con- Future purchases ceded to the U. States for fortifications.

tinued and kept up forever thereafter, for the public use and defence; and that the quantity of ground in each case shall not exceed five acres.

No cession to prevent state process from being served.

3. *And be it further enacted*, That no cession herein made shall be so construed as to prevent any officer of the state from serving process or levying executions agreeably to the laws thereof, within the limits ceded by, or in pursuance of this act, to the United States, in the same manner, and to the same effect, as if the same was never passed.

Former acts repealed.

4. *And be it further enacted*, That all acts and clauses of acts coming within the meaning and purview of this act, or contrary thereto, shall be and the same are hereby repealed and declared void.

CHAP. 650.

(a See 1803, c. 627.)

An act to amend an act, passed at Raleigh, one thousand eight hundred and three, (a) to raise the jurisdiction of a single justice of the peace out of court.

No suit to be brought into court for less than 30l.

1. *Be it enacted, &c.* That from and after the passing of this act, that if any person, under any pretence whatever, shall bring a suit in any of the courts of this state, for any sum under thirty pounds, which is cognizable before a single justice, unless the principal and interest shall exceed the sum of thirty pounds, that this act may be plead in abatement thereof; any law, usage or custom to the contrary notwithstanding.

Constables to give bond.

(b See 1741, c. 24, 1786, c. 253, s. 8, 1818, c. 980.)

2. *And be it further enacted*, That the constables who hereafter may be appointed, shall give bond and security in the sum of five hundred pounds under the same rules, regulations and restrictions as are already provided by law. (b)

CHAP. 651.

(c See 1796, c. 455, s. 13.)

An act to repeal part of the thirteenth clause or section of an act, entitled "An act to remedy certain inconveniencies arising under the present land laws," passed at the session of the General Assembly begun and held on the twenty-fifth day of November, one thousand seven hundred and ninety-six. (c)

Part of the 13th section repealed.

1. *Be it enacted, &c.* That that part of the said thirteenth clause or section which relates to the perfecting

titles or entries afterwards to be made, to wit, "And in all cases of entries which may be hereafter made, it shall be the duty of the claimant or owner, surveying the same as aforesaid, to complete his title by taking out a grant for the same, or so much thereof as may be found to be vacant land, within two years from the date of such entry, otherwise such entry and claim shall then become utterly null and void, so far as relates to the property in the said land, and the lands included therein shall be held and deemed vacant land to all intents and purposes, as fully as if such entry had never been made," be, and the same is hereby repealed and made void.

2. *And be it further enacted*, That this act shall take effect from the ratification thereof.

To take effect from ratification.

CHAP. 652.

An act to revise and continue in force, the acts and clauses of acts heretofore passed, declaring certain entries lapsed, notwithstanding the purchase money may have been paid, in case they are not surveyed and returned into the secretary's office within a limited time. (See 1803, c. 637.)

1. *Be it enacted, &c.* That all bona fide entries of lands in this state, which have been paid for as by law directed, shall have until the first day of October, one thousand eight hundred and eight, to make surveys and return them into the secretary's office.

Entries to have till October 1, 1808, to make surveys, &c.

2. *And be it further enacted*, That this act shall be in force from the ratification thereof.

To be in force from ratification.

CHAP. 653.

An act giving further time to pay the purchase money to the state on the entries of land therein mentioned, and fixing the times within which the purchase money on all entries which shall be made after the first day of January, one thousand eight hundred and five, shall be paid into the public treasury. (See 1803, c. 634.)

1. *Be it enacted, &c.* That all persons who have made entries of claim for lands with any of the entry-takers in this state, in the years one thousand eight hundred, one thousand eight hundred and one, one thousand eight hundred and two, and one thousand eight hundred and three, and have not paid for the same, shall have

'Till next meeting of the Gen. Assembly allowed for paying purchase money of land entered from 1800 to 1803.

until the meeting of the next General Assembly to pay the purchase money into the treasury of the state; and all entries of claim for lands made in the said years, which shall not be paid for on or before that day, shall lapse and revert to the state; and the lands so entered and not paid for, as aforesaid, shall thenceforward be held vacant and unappropriated lands.

Entries made in the year 1804, to have till the meeting of the Gen. Assembly in 1806 to pay the purchase money.

2. *And be it further enacted*, That all persons who have made, or shall make entries of claim for lands with any of the entry-takers of this state, in the present year, that is to say, in the year one thousand eight hundred and four, and shall not sooner pay for the same, shall have until the second day of the meeting of the General Assembly in the year one thousand eight hundred and six, to pay the purchase money into the treasury of the state; and all entries of claim for lands made in the said year, which shall not be paid for on or before that day, shall lapse; and the lands so entered, and not paid for, shall revert to the state, and shall thenceforward be held vacant and unappropriated.

Entries made from 1st January, 1805, to 1st Dec. following to have till 1st Nov. 1807, to pay the purchase money.

3. *And be it further enacted*, That for all entries of claim for lands which may be made with any of the entry-takers in this state, from and including the first day of January, one thousand eight hundred and five, to and including the first day of December next following, the entries shall have until the first day of November, which shall happen in the year one thousand eight hundred and seven, to pay the purchase money into the public treasury.

The fixed law in future.

(a See 1808; c. 759—time of payment altered to 15th Dec.

4. *And be it further enacted*, That the fixed and standing law in future shall be, that all entries of land made in the course of any one year, shall, in every event, be paid for on or before the first day of November, (a) which shall happen in the second year thereafter; otherwise all entries of claim for lands so made, as aforesaid, and not paid for on or before the first day of November, which shall happen in the second year after making the same, shall lapse, and the lands so entered shall revert to the state, and shall be free, as shall all other entries which become lapsed by and under this act, for any person or persons to enter as vacant and unappropriated, any law to the contrary notwithstanding.

CHAP. 654.

An act to amend an act, entitled "An act appointing commissioners (a See 1803, to extend the boundary line of this state, and the state of South- c. 631, 1806, Carolina," passed at Raleigh, in the year one thousand eight hun- c. 696, 1808, dred and three.(a) c. 738, 1813, c. 857, 1814, c. 880, 1815, c. 885.)

Be it enacted, &c. That from and after the passing of this act, the governor for the time being, and his successor, shall be and he is hereby vested with full power and authority to enter into any compact or agreement, that he may deem most advisable for the interest of this state, with the legislative or executive powers of the states of South-Carolina and Georgia, relative to the establishing permanently, the boundary line between this state and the said states of South-Carolina and Georgia, and for the extension of the same: *Provided nevertheless,* That nothing herein contained shall be so construed as to affect any part or clause of the above recited act.

Governor vested with power to treat with S. Carolina and Georgia.

CHAP. 655.

An act to amend an act, entitled "An act empowering the county court of pleas and quarter sessions to direct the secretary of state to correct certain patents or grants therein described, when there have been errors by the surveyor in the returns, or by the secretary in issuing the same."(a) (a See 1798, c. 504, s. 2.)

Whereas doubts have arisen whether from the wording of the said act, the benefits therein given can be extended to any other persons than the patentee or claimant in whose name grants are or have been issued,

Preamble.

1. *Be it therefore enacted, &c.* That the benefits granted by said act to the patentees of land, shall be extended in all cases to every person claiming by, from or under their grant or grants, either by descent, devise or purchase.

Benefits granted by said act to be extended in certain cases.

2. *And be it further enacted,* That when any error is ordered to be rectified, and the same has been carried through from the grant into the mesne conveyances, the court making such order, shall direct that a copy thereof be recorded in the register's books of the county, for which service the register may demand and receive the sum of two shillings.

Rectified errors to be recorded in the register's books.

CHAP. 656.

An act to amend an act passed by the last General Assembly, entitled
 "An act for establishing a Mutual Insurance Society against fire on
 buildings, goods and furniture in this state." (a)

(a See 1803, c.
 630.)

Preamble.

Whereas doubts have arisen in the minds of some persons whether it was the intention of the legislature in the above recited act, to fix the board of direction of the said Mutual Insurance Society in the city of Raleigh, notwithstanding by the act aforesaid provision is made for holding the general meetings of said society in said city, and all suits against said society are required to be brought in the county court of Wake, and the Mutual Insurance Plan being intended for the equal convenience of the state at large, it is requisite that the concerns of the society be managed at the seat of government, which is most central and convenient,

Board of directors to be in Raleigh.

1. *Be it therefore enacted, &c.* That the board of direction of the aforesaid society shall be held in the city of Raleigh, in which place shall be kept the offices of the principal agent and cashier general, and in and near which shall reside the aforesaid officers and the president and a majority of the directors.

And whereas doubts are entertained whether the property insured according to the direction of the act aforesaid, will remain as a pledge and security for the payment of any quota, demanded after the insured has withdrawn his insurance, or whether any member of the said society has the privilege of withdrawing therefrom,

Members may withdraw from the society.

2. *Be it therefore enacted,* That any member of said Insurance Society may withdraw his insurance at any time after the payment of his premium, and such quota or quotas as may of right be demandable of him at the time of delivering his declaration to withdraw: *Provided*, such declaration be in writing, and signed by the party so declaring and acknowledged by him before some justice of the peace of this state, with the certificate of said justice that the same was duly acknowledged before him by the person whose signature appears thereto; which declaration shall be delivered to the board of directors, and by them received as evidence of such withdrawing, and shall discharge such member and his insured property as mentioned in said declaration, from all further pledge and liability: *Provided however*, such insured

property shall be considered and remain liable as a pledge and security for the payment of any quota which may at any time be imposed for the retribution of a loss or losses sustained previous to such discharge.

CHAP. 657.

An act to cede to the United States the jurisdiction of the land therein mentioned.

Whereas the Congress of the United States, at their last session, passed an act, providing among other things for the erection of a light-house on or near the pitch of Cape Look-Out, in this state, and it is expedient that the United States should have exclusive jurisdiction of the land whereon the same is to stand, Preamble.

1. *Be it enacted, &c.* That the exclusive jurisdiction of four acres of land lying near the pitch of Cape Look-Out, in the county of Carteret, in this state, beginning at a cedar and running north eighty-three degrees east, twenty-five poles and four-tenths of a pole to a live oak, then south seven degrees east, twenty-five poles and four-tenths of a pole to a post, then south eighty-three degrees west, twenty-five poles and four-tenths of a pole to a post, and thence to the beginning, shall be and is hereby ceded to the United States as soon as they shall obtain the title thereof from the proprietor or proprietors. Jurisdiction ceded.

2. *And be it further enacted,* That the said jurisdiction is ceded to the United States upon the express condition that a light-house shall be erected thereon, within five years, and be continued and kept up forever thereafter, for the public use. Condition of the cession.

3. *And be it further enacted,* That nothing herein contained shall be construed to debar or hinder any of the officers of this state from serving any process or levying executions within the limits of which the jurisdiction is by this act ceded to the United States, in the same manner and to the same effect as if this act had never been made. Not to debar the serving of state process.

CHAP. 658.

An act directing in what cases bail shall be given in actions of ejectment.

Plaintiff in ejectment to enter into bond at the return court.

1. *Be it enacted*, That upon the return of any writ of ejectment to any court having cognizance thereof, the real plaintiff in said writ, his agent or attorney, at the return court of said writ, shall enter into bond with the clerk of the court to which said writ shall be returned, with good and sufficient security, to prosecute the same with effect, or otherwise to pay all such costs and damages as shall be awarded on failure thereof.

Defendants to enter into bond to answer such writ.

2. *And be it further enacted*, That in all actions of ejectment, the person or persons who shall make themselves defendants in said suits, shall, on doing the same, either by themselves, their agent or attorney, enter into bond, with good and sufficient security, to answer such writ or writs of ejectment in the court to which they may be made returnable; and abide by the determination of the same; which defendant or defendants shall be under the same rules and regulations, and liable to the same judicial proceedings, as to all costs and damages that may be awarded against him or them, as principal and bail are subjected to in other civil actions of law in said court; any law to the contrary notwithstanding.

On failure of giving bond, the suit to be dismissed.

5. *And be it further enacted*, That whenever any plaintiff or plaintiffs shall fail to give his bond for prosecuting, as before directed, the court shall, on motion, dismiss the suit; and whenever any person or persons may be desirous of becoming defendant or defendants in said suits, they shall give bond as before directed, or be in custody of the sheriff before they or their attorney shall be suffered to plead.

CHAP. 659.

An act to relieve certain inhabitants of Mecklenburg county, and other citizens of this state.

Preamble.

Whereas by an act of the General Assembly, passed at the city of Raleigh, in the year 1794, entitled "An act more liberally to endow the university of North-Carolina, and secure the titles of certain inhabitants of Mecklenburg county and other citizens of this state, to

certain lands heretofore purchased from Henry Eustace M'Culloch," it is enacted, that all lands not heretofore sold, which under any of the laws commonly called confiscation laws, have been forfeited or confiscated to the use of the state, be and the same are hereby granted to and vested in the trustees of the university of North-Carolina, and their successors forever, in trust for the use and benefit of said university:" And with respect to lands which had been sold by the said Henry Eustace M'Culloch, and for which he had taken bonds or mortgages previous to the fourth day of July, in the year one thousand seven hundred and seventy-six, in the second section of the above recited act, it is enacted, "That so much and such part of the said confiscated lands as may have been bona fide purchased or mortgaged as aforesaid are granted to, and vested in the trustees of the university of North-Carolina, and their successors, not only for the use and purpose above mentioned in this act, but on the express trust, that the said trustees and their successors shall take and use all proper ways and means, both in law and equity, to convey and assure to the equitable owners and claimants of such lands a good and sufficient title in law, to the lands so purchased or mortgaged as aforesaid, such equitable owners or claimants paying or securing to be paid to the said trustees or their successors, such sum or sums of money as may be justly due on such purchase or mortgage: *Provided*, That the interest to be required from such claimant, shall in no instance exceed the principal; nor shall interest in any case be calculated during the war:" And in the fourth section of said act, it is further enacted, "That the proceeds of all sales which shall be made, and the amount of all payments received under this act, shall be considered as a fund the interest whereof shall be applied to the use and purposes expressed in this act for the term of ten years, at the expiration of which time, the principal thereof, after deducting the charges of collection, shall be subject to the direction and disposition of the General Assembly. And whereas the said trustees of the university of North-Carolina, by themselves, their agents or attornies, in pursuance of the said act, have received from the inhabitants of Mecklenburg county, and other citizens of this state, considerable sums of money which were due for lands purchased from or mortgaged to the said Hen-

ry Eustace McCulloch, and by said act granted to and vested in the said trustees and their successors, which said sums of money, the said inhabitants of Mecklenburg county and other citizens of this state, by reason of a recent adjudication in the court of conference of this state, are held and considered still liable for and bound to pay to the said Henry Eustace M'Culloch, his agent or attorney, notwithstanding they have heretofore paid the same, or become bound to pay the same, to the said trustees and their successors, whereby they may be compelled to pay a second time the debts contracted with the said Henry Eustace M'Culloch. And whereas it has been represented to this General Assembly, that the sums of money received by the trustees of the university, their agents and attornies, on account of the lands sold by and mortgaged to the said Henry Eustace M'Culloch, and also the greater part of the monies received by the said trustees from other sources, have from time to time been invested in stock of the United States, by which means, they the said trustees, have not in possession a sum sufficient to meet and discharge the demands which may be made on them by the said inhabitants of Mecklenburg county and other citizens of the state, on account of the liability to the said Henry Eustace M'Culloch as aforesaid : And whereas it is but just that they should be indemnified : For remedy whereof,

Treasurer directed to pay sums due to persons on account of money paid the trustees of university for lands sold by H. E. M'Culloch.

Provided it does not exceed a certain amount.

And on their producing the receipt of the trustees.

1. *Be it enacted, &c.* That the treasurer of this state shall, and he is hereby authorised and directed to pay out of any monies in the public treasury, not otherwise appropriated, to each and every person, such sum or sums of money which he, she or they may have paid to the said trustees of the university, their agents or attornies, on account of lands sold by, or by virtue of mortgages made to the said Henry Eustace M'Culloch, under the act herein before recited, with lawful interest thereon from the time the several sums of money were respectively paid : *Provided nevertheless,* That the whole sum paid out shall not exceed the sum of four thousand five hundred pounds : *Provided also,* That no person shall be entitled to receive any sum of money by virtue of this act, without producing by him or herself, or by his or her attorney legally authorised for that purpose, to the public treasurer, a receipt or receipts from the said trustees, or some one of their agents or attornies.

for the sum or sums of money which he, she or they may have paid as aforesaid ; or in case the money shall have been paid in pursuance of any judgment rendered in behalf of the said trustees, on any suit or suits by them brought on account of debts due for lands of the said Henry Eustace McCulloch, sold or mortgaged as aforesaid, without producing to the said public treasurer a transcript of the record of said judgment, or so much thereof as shall be satisfactory to the said treasurer, with a certificate of the clerk of the court wherein the same was rendered, stating the amount paid on account thereof.

Or on the record of the judgment if sold in pursuance of one.

2. *And be it further enacted,* That the board of trustees of the university of North-Carolina shall, during the present session of the General Assembly, make a report, in which shall be stated the amount collected for lands sold by, and mortgages made to the said Henry Eustace M'Culloch, and the disbursements and expenses attending the collection ; and that so much of the stock of the United States belonging to the said board of trustees, as shall be equal in amount to the nett sum collected by them, their agents or attornies. shall be, and the same is hereby declared to be, pledged to the state of North-Carolina, as a fund which may be applied towards the repayment of the monies herein directed to be advanced to the inhabitants of Mecklenburg county, and other citizens of this state.

Trustees to make a report during present session, on this subject.

3. *And be it further enacted,* That the board of trustees shall cause to be transferred such amount of their stock as shall be equal to the sum contemplated, as above mentioned in the last enacting clause, and herein pledged ; and until such transfer is made, the treasurer shall not pay any sum or sums authorised and directed by this act to be paid to the citizens of Mecklenburg, and others.

Trustees of the university to transfer their stock to the state.

CHAP. 660.

(a See 1799,
c. 520, 1811,
c. 576, 1805,
c. 674, 1816,
c. 693, 1808,
c. 742, 1810,
c. 785, 1811,
c. 808, 1812,
c. 829, 1813,
c. 851, 1818,
c. 962 and 963.)

The act of 1801
declared in full
force.

How the judges
in court of con-
ference shall de-
liver their
opinions.

(b Altered by
1810, c. 785, s. 3.)

Papers and re-
cords to be kept
at Raleigh.

An act to continue in force an act passed in the year one thousand eight hundred and one, entitled "An act to continue longer in force and to amend an act passed in the year one thousand seven hundred and ninety-nine, entitled An act directing the judges of the superior courts to meet together to settle questions of law or equity arising on the circuit, and to provide for the trial of persons concerned in certain frauds." (a)

1. *Be it enacted, &c.* That from and after the passing of this act, an act of the General Assembly, passed in the year one thousand eight hundred and one, entitled "An act to continue longer in force and to amend an act passed in the year one thousand seven hundred and ninety-nine, entitled An act directing the judges of the superior courts to meet together to settle questions of law or equity arising on the circuit, and to provide for the trial of persons concerned in certain frauds," be, and the same is hereby declared to be in full force and virtue.

2. *And be it further enacted,* That the judges of the said court of conference shall not only reduce their opinions to writing, and file the same in the clerk's office, as heretofore directed by law, but that the judges of the said court shall likewise, when their opinions are made, deliver the same *viva voce* (b) in open court. That the said court shall be deemed a court of record, and that the papers and records belonging to the clerk's office of said court, shall hereafter be constantly kept within the city of Raleigh; any thing to the contrary notwithstanding.

CHAP. 661.

(c See 1814, c.
870—this act al-
tered—see also
1807, c. 714.)

Preamble.

Capital stock.

An act for establishing a bank in the town of Wilmington. (c)

Whereas the increase of population and commerce in the districts of Wilmington and Fayetteville, render it expedient that a bank should be established for their accommodation in the town of Wilmington:

1. *Be it enacted, &c.* That a bank shall be established in the town of Wilmington, the capital stock whereof shall not exceed two hundred and fifty thousand dollars, divided into shares of one hundred dollars each; but in the mean time, subscriptions towards constituting one

hundred thousand dollars of said stock shall be opened ; that is to say, at Wilmington on the first Monday in April next, for five hundred shares, under the superintendence of George Hooper, John London, John Hill, John Hogg, Richard Bradley, William Giles and Henry Watters ; and on the same day at Fayetteville, for five hundred shares, under the superintendence of John Winslow, David Anderson, William B. Grove, Duncan M'Leran, Robert Holliday, Peter Perry and Simeon Belden. And a majority of said commissioners, at the places above mentioned respectively, shall be sufficient to perform the duties of their appointment ; and it shall be competent for the corporation created by this act, to proceed to fill up, in whole or in part, the remaining fifteen hundred shares, by subscriptions to be opened at the above places, respectively, at such time, and under such commissioners, as they may appoint, giving three months notice thereof in the Wilmington, Newbern and State Gazettes.

Subscriptions to
be opened.

2. *And be it further enacted*, That the amount of the share or shares subscribed for, shall be paid by the several and respective subscribers in gold or silver, one fourth thereof at the time of subscribing, to the said commissioners, and one fourth within sixty days after the bank shall go into operation, one fourth within one hundred and twenty days, and one fourth in six months, to the bank directors for the time being : *Provided always*, That it shall be lawful for any subscriber to pay the whole of his subscription money, or any greater part than is hereby required, before the time limited for the same ; and each and every subscriber so paying in advance, shall have a discount at the rate of six per centum per annum on such advance, computing from the commencement of the operation of the said bank ; and any person or persons failing to pay any instalment at the time herein appointed, shall forfeit to the corporation the sum or sums by him or them before paid, and shall thenceforth cease to be a member thereof ; and it shall be competent for the corporation to supply any deficiency occasioned by any such delinquency, by sale or otherwise, as they may deem proper.

Subscriptions to
be paid in gold
or silver.

When paid.

Forfeiture on
failure to pay.

3. *And be it further enacted*, That the subscribers to the said bank, their successors and assigns, shall be, and are hereby created and made a corporation and body politic, in law and in fact, by the name and style

Subscribers in-
corporated.

of "The President, Directors and Company of the Bank of Cape-Fear," and shall so continue until the first day of January, one thousand eight hundred and twenty, and by the name and style aforesaid, they shall be, and are hereby made able and capable in law, to have, purchase, receive, possess, enjoy and retain, to themselves and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, to an amount not exceeding in the whole (including the amount of the capital stock aforesaid) six hundred thousand dollars, and the same to sell, grant, demise, alien or dispose of, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record or any other place whatsoever; and also to make, have and use, a common seal, and the same to break, alter and renew at their pleasure; and also to ordain, establish and put in execution, such by-laws, ordinances and regulations, as shall seem necessary for the government of the said corporation, not being contrary to the constitution of this state, or of the United States, or of the said corporation; for which purpose, general meetings of the stockholders shall and may be called by the directors as hereinafter specified, and generally to do and execute all such acts, matters and things as to them shall and may appear necessary; subject nevertheless to the rules, regulations and restrictions hereinafter declared and prescribed.

To be eleven directors elected yearly.

4. *And be it further enacted*, That for the well ordering of the affairs of the said corporation, there shall be eleven directors, being citizens of this state, of whom at least seven shall be residents of Wilmington, or within fifteen miles thereof, elected yearly by the stockholders, at a general meeting to be held annually at Wilmington, on the first Monday in January; provided the first election of directors shall not be included in the before mentioned general regulation, but shall be held at the time and in the manner hereinafter directed; and provided that in case it should at any time happen that an election of directors should not be made on any day when pursuant to this act it ought to have been made, the said corporation shall not for that cause be dissolved, but it shall be lawful on any other day within ten days thereafter, to hold and make an election for directors, in such manner as shall be regulated by the laws and ordinances of the said corporation; and that

The corporation not to dissolve if directors be not elected.

in case of the death, resignation or absence from the state, of any director, his place shall be filled up by a new choice for the remainder of the year by a majority of the directors.

5. *And be it further enacted*, That on the first day of May next, and every thirty days thereafter, if the subscription shall not be sooner closed, the commissioners appointed at Fayetteville, shall transmit and deliver to the commissioners appointed at Wilmington, a list of the several subscribers at such place, and the share or shares to each and every subscriber belonging, together with the full amount of the subscription money by the said commissioners received as aforesaid; for which amount the receipt in writing of the said commissioners appointed in and for the town of Wilmington, or a majority of them, shall be a sufficient acquittance and discharge to the persons respectively paying the same; and as soon as the sum of twenty-five thousand dollars in the manner aforesaid shall be actually received on account of the subscription to the said capital stock of the said bank, notice thereof shall be given by the commissioners appointed in and for the town of Wilmington, in the Wilmington and State Gazettes, and the same persons shall at the same time notify a time and place within the said town at the distance of twenty days from the time of such notification, for proceeding to the choice of directors; and it shall be lawful for such election to be then and there made, and the eleven persons who shall then and there be chosen, shall be the first directors and shall be capable of serving until the first Monday in January thereafter or until their successors shall be duly elected; and the said directors shall forthwith commence the operations of the said bank at the town of Wilmington.

The manner of conducting the subscription.

When \$25,000 subscribed the bank to go into operation.

6. *And be it further enacted*, That it shall be lawful for the corporation to establish a branch of said bank, whensoever they shall think fit, at and in the town of Fayetteville, for the purpose of discount and deposit only, and upon the same terms and in the same manner as shall be practised at the bank in Wilmington, and to commit the management of the said office or branch, and the making of the said discounts, to such persons under such agreements, and subject to such regulations as they shall deem proper, not contrary to the constitution of this state, the United States, or of this corpora-

A branch bank may be established at Fayetteville.

tion : subscriptions may be made in person or by proxies appointed in writing.

Directors to appoint officers, clerks, &c.

7. *And be it further enacted*, That the directors for the time being shall have power to appoint such officers, clerks and servants under them, as they shall deem proper, and regulate their respective duties and compensation, and shall be capable of exercising such other powers and authorities as shall be described, fixed and determined by the laws, regulations and ordinances of the corporation.

Fundamental articles of the constitution of the bank.

8. *And be it further enacted*, That the following rules, restrictions, limitations and provisions, shall form and be the fundamental articles of the constitution of the said corporation : The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, one vote for each share ; they shall have a right to vote by a proxy, he being a stockholder : No director shall receive any emolument ; the stockholders may allow a salary or other compensation to the president : No less than five directors shall constitute a board for the transaction of business, of whom the president shall always be one, unless in case of sickness or necessary absence, he shall appoint by a written instrument a director to fill his place : A number of stockholders, not less than twenty-five, being altogether owners of fifty shares, shall have power to demand a general meeting, and the president shall call one within thirty days after the communication of their request : Every cashier shall give bond and security, before he enters on the duties of his office, in the sum of ten thousand dollars, and the other officers, clerks or servants of the corporation, shall give such security as the directors shall require : The stock of the said corporation shall be transferable and alienable, according to such rules and regulations as the corporation shall, from time to time, make for that purpose : Bills, bonds and notes, subscribed by the president, and countersigned by the cashier, shall be binding and obligatory upon the corporation : Half-yearly dividends shall be made of such part of the profits of the bank as shall appear advisable : The total amount of notes emitted or thrown into circulation by the said corporation, together with their debts of every description, shall not at any time exceed the sum of seven hundred and fifty thousand dollars, over and above the monies then actu-

ally deposited in the bank for safe-keeping ; and in case of excess, the directors under whose administration it shall happen, shall be liable for the same in their natural private capacities, and an action of debt may in such case be brought against them, or any of them, or their heirs, executors or administrators, in any court of record, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution ; any condition, covenant or agreement to the contrary notwithstanding : *Provided*, That any of the directors who may have been absent, or have dissented from the resolution or act whereby such excess was contracted or created, may respectively exonerate themselves from being so liable, by forthwith entering their protest with and before a notary public, and to the stockholders at a general meeting, which they shall have power and are hereby required and directed to call for that purpose : None but a stockholder, being a citizen of this state, shall be eligible as a director : The lands, tenements and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales on judgments, which shall have been obtained for such debts : Nor shall this corporation, directly or indirectly, deal or trade in any thing except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or in goods the produce of its lands ; neither shall the said corporation take more than at the rate of a half per centum for thirty days, for or on account of its loans or discounts.

9. *And be it further enacted*, That it shall and may be lawful for the state of North-Carolina, at any time within three years from and after the passing of this act, to become interested in said bank, to an amount not exceeding two hundred and fifty shares of one hundred dollars each ; and on the payment into the said bank by the state for any shares she may deem it advisable so to take, it shall be lawful thenceforward for the said corporation to issue notes founded on such exten-

The state may become interested in the bank.

sion of capital, in the same ratio as is herein before provided on the original stock created by virtue of this act.

A house, &c. to be provided.

10. *And be it further enacted*, That the commissioners appointed by this act for receiving subscriptions in the town of Wilmington, shall, immediately after a sufficient number of shares are taken, provide a house for carrying on the business of the bank, together with all necessary paper, stationery, vaults and utensils suitable to the same, so that as soon as the directors are chosen, the operations of the said bank may be immediately prosecuted and carried into effect.

This bank not to have preference to any state bank.

11. *And be it further enacted*, That nothing herein contained shall be construed to give to the bank by this act created, any precedence or preference to any bank which the Legislature may at any time hereafter establish at the towns of Wilmington and Fayetteville, or elsewhere; and the said bank by this act established, may become a branch (on such terms as may be agreed on) of any general bank which may be established for this state in the city of Raleigh or elsewhere.

CHAP. 662.

(a This act altered by 1814, c. 870—see also 1809, c. 714.)

An act to incorporate the Newbern Marine Insurance Company, and to establish a Bank in said town.(a)

Preamble.

Whereas James M'Kinlay and others, associated as a company, under the style of the Newbern Marine Insurance Company, have prayed to be incorporated;

Insurance company incorporated.

1. *Be it enacted, &c.* That all such persons as now are, or hereafter shall be stockholders of said company, shall be, and are hereby constituted, ordained and declared to be, a body politic and corporate, by the name of "The Newbern Marine Insurance Company," and that by that name, they and their successors shall have perpetual succession, and shall be capable of suing and being sued, pleading and being impleaded, answer and being answered unto, defending and being defended, in all courts and pleas whatsoever; and that they and their successors may have a common seal, and change and alter the same at their pleasure; and be capable of purchasing, holding and conveying any estate, real and personal, for the use of said company.

2. *And be it further enacted,* That a share in the stock of the said company shall be fifty pounds, payable in advance, or by such instalments as the president and directors, hereafter directed to be appointed, shall direct; and the number of shares shall not exceed five hundred, and subscription books may from time to time be opened, under the direction of the said president and directors.

Shares to be 50l. each.

3. *And be it further enacted,* That the stock and property, affairs and concerns of said corporation, shall be managed and conducted by eleven directors (one of whom shall be president and another secretary) who shall hold their offices for one year, and until others shall be chosen, and at the time of their election shall be stockholders and inhabitants of the town of Newbern, and shall be elected on the second Monday of January in every year, at such time of the day, and at such place in said town, as the directors for the time being shall appoint, and every stockholder shall, at such election, have a vote for every share he holds, reckoning no share except such as were acquired ninety days before the election; and the persons having the greatest number of votes (a majority of the votes of the stockholders being taken) shall be elected.

Corporation to be managed by eleven directors.

That the directors shall meet as soon as may be after every election, and shall choose the officers and servants of the company, the latter of whom shall be removable at their pleasure, and shall during the year fill up any vacancy that may happen in their own body, or in said officers or servants; but such appointments shall expire on the day of the next annual election; but until the second of January, one thousand eight hundred and six, Samuel Chapman, Josiah Collins, jun. John Deveaux, John Harvey, Moses Griffin, James M'Kinlay, Francois Xavier Martin, William Sheppard, John Stanly, Isaac Taylor and Alexander Torrans, shall be directors, and James M'Kinlay president, and William Sheppard secretary.

Directors to meet & choose the officers and servants of the company.

The directors till 1806 named.

4. *And be it further enacted,* That if it should at any time happen, that an election of directors should not be made on any day when, pursuant to this act it ought to have been made, the said corporation shall not therefore be dissolved, but it shall and may be lawful to hold and make an election of directors in such a manner, and at such time, as the laws and ordinances of the corporation may direct.

Corporation not dissolved by a failure of making an election of directors.

President and six directors shall constitute a board.

A committee to make insurances, &c.

A bank to be established.

The capital.

Subscriptions to be opened.

Shares to be paid for in gold or silver.

The president and six directors shall constitute a board competent for the transaction of business, and have power to make laws and ordinances for the management and disposition of the stock, property, estate and effects of the corporation, the transfer of shares, and the duties and compensations of the secretary and servants employed. They shall also appoint a committee of four directors, any two of whom, with the president, shall have power, on behalf of the corporation, to make insurances, fix premiums, lend money on bottomry or respondentia bonds, mortgages on the personal security of two responsible freeholders, direct the issuing of policies, notes, and all and every instrument of writing that may be necessary and proper in the transaction of the affairs of the company; and all such instruments, subscribed by the president and countersigned by the secretary, shall bind the property, real or personal, of the corporation; and until the second Monday of February, one thousand eight hundred and six, John Devereux, Isaac Taylor, John Harvey and Alexander Torrans, shall be the committee of directors.

5. *And be it further enacted*, That a bank shall be established in the town of Newbern, the capital stock whereof shall not exceed two hundred thousand dollars, divided into shares of one hundred dollars each; but in the mean time, subscriptions shall be opened in the said town for five hundred shares, on the first day of April next, under the superintendence of James M'Kinlay, John Devereux, Francois Xavier Martin, Isaac Taylor and John Harvey, a majority of which said commissioners shall be competent to perform the duties of their appointment: And they shall keep the subscription books open for the term of ten days; and if the number of shares shall not be subscribed within the said term of ten days, then they shall keep the said books open until the said five hundred shares are subscribed, and no longer: And the corporation by this act created, may, at any future time, open books to receive subscriptions for the remaining fifteen hundred shares, at such time and at such place, and under the superintendence of such persons, as they may deem advisable and expedient. Subscriptions may be made in person, or by proxy in writing.

6. *And be it further enacted*, That the amount of the share or shares subscribed for, shall be paid by the

several and respective subscribers in gold or silver, one fourth thereof at the time of subscribing, to the commissioners, one fourth within sixty days after the bank shall go into operation, one fourth within one hundred and twenty days, and one fourth in six months, to the bank directors for the time being: *Provided always*, That it shall be lawful for any subscriber to pay the whole of his subscription money, or any greater part than is hereby required, before the time limited for the payment of the same; and each and every subscriber so paying in advance, shall have a discount at the rate of six per centum per annum on such advance, computing the same from the commencement of the operation of the said bank.

7. *And be it further enacted*, That the subscribers to the said bank, their successors and assigns, shall be, and are hereby created and made a corporation and body politic, in law and in fact, by the name and style of "The President and Directors of the Bank of Newbern," and shall so continue until the first day of January, in the year eighteen hundred and twenty, and by the name and style aforesaid they shall be, and are hereby made able and capable in law, to have, purchase, receive, possess, enjoy and retain, to themselves and successors, lands, rents, tenements, hereditaments, goods, chattels and effects, to an amount not exceeding in the whole five hundred thousand dollars, including the amount of the capital stock aforesaid, and the same to sell, grant, demise, alien or dispose of; to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record or any other place whatever; and also to make, have and use, a common seal, and the same to break, alter and renew at their pleasure; and also to ordain, establish and put in execution, such by-laws, ordinances and regulations, as shall seem necessary and convenient for the government of the said corporation, not being contrary to the laws of this state, or of the United States; and for the making whereof general meetings of the stockholders may be called by the directors in the manner hereinafter specified, and generally to do and execute all acts, matters and things, which a corporation or body politic in law may or can lawfully do and execute; subject to the rules, regulations, restrictions,

Subscribers incorporated.

limitations and provisions hereinafter prescribed and declared.

To be eleven
directors.

8. *And be it further enacted*, That for the well ordering of the affairs of the said corporation, there shall be eleven directors, being citizens of this state, elected yearly by the stockholders, at a general meeting to be held annually at Newbern, on the first Monday in January, seven of whom shall reside at Newbern, or within twenty miles thereof; provided that the first election of directors shall not be included in the above mentioned general regulation, but shall be held at the time and in the manner hereinafter directed; and provided that in case it should at any time happen that an election of directors should not be made on any day when pursuant to this act it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved, but it shall be lawful at any other day within ten days thereafter, to hold and make an election for directors, in such manner as shall have been regulated by the laws and ordinances of the said corporation; and that in case of the death, resignation or absence from the state, of a director, his place shall be filled up by a new choice for the remainder of the year by a majority of directors.

When \$12,500
received said
bank may go
into operation.

9. *And be it further enacted*, That as soon as twelve thousand five hundred dollars shall be actually received on account of the subscription to the said capital stock of the said bank, notice shall be given thereof by the said commissioners, or a majority of them, in the gazettes printed in the said town of Newbern; and the same persons shall, at the same time, notify a time and place within the said town, within the distance of twenty days from the time of such notification, for proceeding to the choice of directors, and it shall be lawful for such choice to be then and there made; and the eleven persons who shall be then and there chosen, shall be the first directors, and shall be capable of serving until the first Monday in January thereafter, by virtue of such choice, or until their successors shall be duly elected. And the said directors shall forthwith thereafter commence the operation of the said bank in the town of Newbern.

Directors to ap-
point officers,
clerks, and ser-
vants.

10. *And be it further enacted*, That the directors for the time being shall have power to appoint such officers, clerks and servants under them, as shall be necessary

For executing the business of said corporation, and to allow them such compensation for their services respectively as shall be reasonable; and shall be capable of exercising all such powers and authorities for the well governing of the affairs of the corporation, as shall be prescribed by the laws, ordinances and regulations of the same.

11. *And be it further enacted,* That the following rules, regulations, restrictions, limitations and provisions, shall be and form the fundamental articles of the constitution of the said corporation. No stockholder shall be entitled to more than one vote for each and every share he may hold: They shall be entitled to vote by proxy, he being a stockholder: No director shall receive any emolument, nor shall any person be a director who is not a stockholder: The stockholders may allow the president a salary, or other compensation: Not less than five directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case his place may be supplied by any other director properly authorised by him by an instrument in writing: A number of stockholders, not less than twenty-five, being altogether owners of fifty shares, shall have power to demand a general meeting, and the president shall call one within thirty days after the communication of their request: Every cashier or treasurer shall give bond and security before he enter on the duties of his office, in the sum of ten thousand dollars, and the other officers, clerks and servants of the corporation, shall give such security as the directors shall require: The stock of the said corporation shall be transferable and alienable, agreeable to such rules and regulations as the corporation shall, from time to time, make for that purpose: Bills, bonds and notes, signed by the president and countersigned by the cashier, shall be binding and obligatory on the corporation: Half-yearly dividends shall be made of such part of the profits of the bank as shall appear advisable: The lands, tenements and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of business, and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfac-

Rules of the
bank.

tion of debts previously contracted in the course of its dealings, or purchased at sales upon judgments, which shall have been obtained for such debts: Nor shall this corporation, directly or indirectly, deal in or trade in any thing except bills of exchange, gold or silver bullion, or in the sale of goods really pledged for money lent and not redeemed in due time, or in goods which shall be the produce of its lands; neither shall the said corporation take more than at the rate of one half per centum for thirty days, for or on account of its loans or discounts: The total amount of notes emitted or thrown into circulation by the said corporation, together with their debts of every description, shall not at any time exceed six hundred thousand dollars, over and above the monies then actually deposited in the bank for safe-keeping, unless the contracting of any greater debt shall have been previously authorised by a law of the state; in case of excess, the directors under whose administration it shall happen, shall be liable for the same in their natural private capacities, and an action of debt may be brought against them, or any of them, or their heirs, executors or administrators, in any court of record, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution; any condition, covenant or agreement to the contrary notwithstanding. But this shall not be construed to exempt the said corporation, or the lands, tenements, goods or chattels of the same from being also liable for, and chargeable with the said excess: such of the said directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was created or contracted, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, with and before some notary public, and to the stockholders at a general meeting, which they shall have power and are hereby directed to call for that purpose.

12. *And be it further enacted*, That if the state of North-Carolina shall, at any time within three years, deem it advisable to become interested in said bank, it shall and may be lawful for the said state to cause to be subscribed therein, an amount not exceeding two hundred and fifty shares of one hundred dollars each; in which case notes and bills may be issued by said bank,

Provisions for allowing the state an interest in this bank.

founded on the extension of capital produced by the subscription and payment in consequence thereof, on the part of the state, to a greater amount than before authorised, in the same ratio as on the original capital stock created by this act: but nothing in this act shall be construed to give a preference or precedence to the bank created by this act to any state bank which hereafter may be established at the town of Newbern, or elsewhere; and the said bank may become, on such terms as may be agreed on, a branch of any general state bank which may be established at the city of Raleigh, or elsewhere.

Nothing in this act to give this bank a preference.

13. *And be it further enacted*, That as soon as five hundred shares shall be subscribed, the commissioners in the town of Newbern may, and are hereby authorised to provide a house for transacting the business of said bank, together with all necessary stationary, utensils, paper and vaults for carrying on the business thereof, so that the said bank may commence its operations as soon as directors shall be appointed.

A house, &c. to be provided.

CHAP. 663.

An act to continue in force for a longer time, an act, entitled "An act for the relief of non-commissioned officers and soldiers of the continental line and militia of this state, who have been disabled in the service of the United States or of this state, during the late war, and who are not placed on the pension list of the United States, and are barred by the act of limitation," passed in the year one thousand seven hundred and ninety-nine.(a)

(a 1799, c. 530, s. 7.)

Whereas it is represented to this General Assembly, that some of the persons who came within the description and meaning of the above recited act, have, from want of due knowledge thereof, failed to make application for the purpose of being put on the pension list, as therein prescribed: For remedy whereof,

Preamble.

Be it enacted, &c. That the said above recited act be, and the same is hereby continued in force for the term of one year, from the rising of the present General Assembly; and that all such persons as shall, within the same term, obtain from any of the judges of the superior courts, a certificate as is directed and required by the said act, shall be entitled to receive the same allowance as he would have been entitled to receive.

The act continued for one year.

had he so applied and obtained such certificate within the time limited by the said act.

CHAP. 664.

(a See 1779, c. 157, s. 8—1783, c. 189, s. 2.) An act to amend an act, passed in the year one thousand seven hundred and eighty-three, so far as respects the fines of county court jurors.(a)

Be it enacted, &c. That from and after the passing of this act, that every person summoned to attend as a juror to any of the county courts of this state, who shall fail or neglect to attend said court as a juror, shall forfeit and pay a sum not exceeding five pounds, nor under forty shillings, which forfeiture shall be assessed by the court to which such person shall be returned as juror, recovered and applied as the afore-said law directs: *Provided*, That each delinquent jurymen shall have until the next succeeding term to make his excuse to said court for his non-attendance; and if he shall at the said term render, to the satisfaction of the court, sufficient excuse, such delinquent juror shall be discharged without costs; any law to the contrary notwithstanding.

Forfeiture on neglecting to attend as a juror.
Juror's excuse.

CHAP. 665.

(b See 1800, c. 55—see, also, 1809, c. 769, s. 2, 1819, c. 1008.) An act to amend an act, entitled, "An act better to ascertain how witnesses attending in behalf of the state in certain cases, shall be paid," passed in one thousand eight hundred, and to repeal that part of the same which provides for the payment of witnesses attending in behalf of the state in the courts of pleas and quarter-sessions.(b)

Witnesses on indictments for capital cases to be paid by the state, when the prisoner breaks jail.

1. *Be it enacted, &c.* That in all cases where indictments shall be preferred in any of the superior courts, against persons charged with capital offences, the state shall be bound to pay such witnesses as shall be summoned in her behalf, on condition the person charged shall break jail, and shall not afterwards be retaken.

Where nolle prosequis are entered for the state, witnesses to be paid by the state.

2. *Be it further enacted*, That in all cases where nolle prosequis shall be entered by the attorney or solicitor-general for the state, the witnesses who are summoned in behalf of the state and did attend, shall be paid by the state; and the courts are hereby required to enter

the names of such witnesses on record, a certificate of which made by the clerk of the court shall accompany the certificate of allowance, and shall be made under the same rules, regulations and restrictions, as is required by the before recited act.

3. *Be it further enacted*, That in future no cases shall be considered as coming within the purview of this act, that would not affect the life, limb or member of the person charged in case of conviction, or that would not authorise the court to inflict corporal punishment; and that such offences, and no other, shall be considered as capital offences, and that witnesses already in these cases only shall be paid by the state.

No case to come within this act which is not capital.

4. *Be it further enacted*, That certificates for the attendance of witnesses in behalf of the state for which payment is demanded, shall be presented to the comptroller(a) for payment within two years after the same shall have been proved in court; and that it shall be the duty of the clerks of the superior courts to annex the witnesses certificates to the one by them given, stating whether the person charged was tried, convicted or acquitted, as the case may be.

Certificates granted to witnesses to be presented to the comptroller. (a See 1809, c. 769, s. 3.)

5. *Be it further enacted*, That so much of the before recited act as authorises the payment of witnesses in the courts of pleas and quarter sessions be, and the same is hereby repealed and made void, except as to petit larcency.(b)

Part of the recited act repealed. (b See 1800, c. 558.)

CHAP. 666.

An act to amend an act, entitled "An act concerning proving of wills and granting letters of administration, and to prevent frauds in the management of intestates estates," passed in the year one thousand seven hundred and eighty-nine.(c)

(c See 1789, c. 308, s. 5.)

Whereas the fifth section of the before recited act requires every executor and administrator to advertise, at the court-house of the county where the deceased usually dwelt at the time of his death, and other public places in said county, and at the district court-house at the next district superior court of law and equity held for the district in which said county may be, for all persons to bring their accounts and demands of every kind and denomination to the said executor or administrator,

Preamble.

Executors and administrators to take a copy of the advertisement put up in pursuance of the above act, which shall be filed in the clerk's office.

but hath provided no way by which such executor or administrator shall prove such advertising:

Be it therefore enacted, &c. That every executor and administrator shall take a copy or copies of the advertisements which he, she or they shall put up, or cause to be put up, in pursuance of the above recited act, which copy or copies, with an affidavit made thereon before some justice of the peace of the county in which advertisements are by said act directed to be made, by some competent witness, stating therein the time and times, and place and places, when and where the said advertisements were seen, shall, at the term of that county court next following that in which any last will and testament shall have been admitted to probate, or any administration shall have been granted, be filed in the office of the clerk of said court: And the said copy or copies attested as aforesaid, shall be considered as a record of said court; and the same, with a certificate of the clerk thereof certifying that the said copy or copies was or were filed at the time herein required, shall be received as evidence in any court of law or equity, or before any other jurisdiction in this state: *Provided always,* That nothing herein contained shall be so construed as to preclude any executor or administrator from proving his, her or their compliance with the requisites of the fifth section of the said recited act, in any other manner which may be deemed competent by the superior courts of law and equity of this state.

CHAP. 667.

An act for the further limitation of actions.

Act of limitation does not bar, if defendant be beyond seas.

Be it enacted, &c. That from and after the passing of this act, when any person or persons against whom there is cause of action, shall be beyond sea at the time of such cause of action given or accrued, fallen or come, that the person who shall have such cause of action, may bring their action against them within such time or times as are limited for bringing such actions by the act of one thousand seven hundred and fifteen, (a) after their return.

(a See 1715, c. 2.)

CHAP. 668.

An act to exempt all regular-bred physicians, or practitioners of physic and surgery, from serving as jurors, either in the county or superior courts.

Be it enacted, &c. That from and after the passing of this act, all regular-bred physicians or practitioners of physic and surgery, shall, and they are hereby declared to be exempt from serving as jurors, either in the county or superior courts of this state; any law or custom to the contrary notwithstanding.

Physicians exempted from jury service.

CHAP. 669.

An act to repeal the second section of an act passed in the year one thousand seven hundred and ninety-eight, entitled "An act for the prevention of vice and immorality, by suppressing excessive gaming."(a)

(a See 1798, c. 502.)

1. *Be it enacted, &c.* That so much of the above recited act as respects billiard-tables be, and the same is hereby repealed and made void.

Former act respecting billiard-tables repealed.

2. *And be it further enacted,* That from and after the passing of this act, it shall and may be lawful for any person or persons in the state aforesaid, to erect and keep a billiard-table, on he, she or they paying a tax of twenty-five(b) pounds annually, for each table so erected; to be collected and accounted for as other public taxes; any law, usage or custom to the contrary notwithstanding: *Provided,* That nothing in this act contained shall be so construed as to repeal any part of an act, entitled "An act to prevent gaming tables in the neighbourhood of the university."(c)

A tax of 25l. a year on billiard-tables.

(b £500, by 1819, c. 988, s. 6.)

(c See 1794, c. 429.)

CHAP. 670.

An act to amend the several processioning laws of this state.(d)

(d See 1792, c. 365.)

Whereas inconveniencies and difficulties arise under the present processioning law, as to the manner of processioning tracts of land that lie partly in one county and partly in another: For remedy whereof,

Preamble.

1. *Be it enacted, &c.* That hereafter it shall be lawful for the processioners of the district in either county, on application of any person who may have lands so divided as aforesaid, lying partly in his said district, to pro-

Processioners to procession certain lands.

cession the same, under the same rules, regulations and restrictions as heretofore established by law.

And whereas the act passed in one thousand seven hundred and ninety-two, required that processioners should be appointed at the first court held in each county after the tenth day of May, one thousand seven hundred and ninety-three, and only provides for supplying vacancies in cases of appointment agreeably to the tenor of the said act, and it is represented that such appointment did not take place in all the counties of the state :

County courts
to appoint pro-
cessioners
whenever appli-
cation is made.

2. *Be it further enacted*, That it shall and may be the duty of the county courts to appoint processioners whenever application is made for the same, and to fill vacancies agreeably to the said law.

CHAP. 671.

(a See 1795,
c. 438, 1800,
c. 553.)

An act to revive and continue in force an act passed at Raleigh, in the year of our Lord 1795, entitled "An act giving further time for the registration of certain deeds issued from Lord Granville's office." (a)

Preamble.

Whereas many of the good people of this state have not availed themselves of the benefits of the said recited act, and it would be just and right that the persons holding lands under such deeds should have the privilege of perpetuating the same :

The said act to
continue in
force for two
years.

Be it therefore enacted, &c. That from and after the passing of this act, the said recited act shall be and continue in full force and operation for two years hereafter ; any thing in the before recited act to the contrary notwithstanding.

CHAP. 672.

An act for adding to the board of commissioners for the navigation of Occacock Inlet, and regulating the pilots thereof.

Commissioners
added.

Be it enacted, &c. That John Wallace, John May and George R. Dickson, be added to the board of commissioners of navigation for Occacock Inlet, and that they, in conjunction with the other commissioners, shall have all the powers, privileges and rights of any other board of commissioners in this state, by any law heretofore made.

CHAP. 673.

An act to annex part of the county of Craven to that of Lenoir, and for other purposes.

Be it enacted, &c. That from and after the passing of this act, all that part of the county of Craven, lying in the fork of Neuse river and Great Contentney creek, shall be and the same is hereby added to the county of Lenoir, and shall become a part of said county of Lenoir, to all intents and purposes whatsoever: *Provided*, That nothing herein contained shall prevent the sheriff of Craven county from collecting the arrearages of taxes which were due before the passing of this act, in the same manner, and under the same rules, regulations and restrictions as if this act had never been passed; any thing to the contrary notwithstanding.

Part of Craven
county added to
Lenoir.

Read three times and ratified in General Assembly, }
19th day of December, Anno Dom. 1804. }

JOSEPH RIDDICK, S. S.

STEPHEN CABARRUS, S. H. C.

Copy.—WILL. WHITE, Secretary.

At a General Assembly, begun and held in the city of Raleigh, on Nathaniel Alexander, Esq. governor, Monday the eighteenth day of November, in the year of our Lord one thousand eight hundred and five, and in the thirtieth year of the independence of the United States of America: It being the first session of this General Assembly.

CHAP. 674.

An act relative to the court of conference.(a)

1. *Be it enacted, &c.* That the name and style of the court of conference shall hereafter be that of the supreme court of North-Carolina, and that it shall be the duty of the sheriff of the county of Wake, by himself or lawful deputy, constantly to attend the said court.

Name and
style altered.
Sheriff of Wake
to attend the
court.

2. *Be it further enacted*, That the sittings of the said court shall hereafter be on the tenth day of June and

Times of hold-
ing the court.

(a See 1799, c. 520—1801, c. 576—1804, c. 660—1806, c. 693—1808, c. 742—1810, c. 785—1811, c. 808—1812, c. 829—1813, c. 851—1818, c. 962 and 963.)

(a Altered by
1818, c. 963 ;
1819, c. 1015.)

second day of December in each and every year, (a) and shall continue to sit at each term until all the business on the docket of said court shall be determined or continued upon good cause shown.

CHAP. 675.

An act to quiet the titles to certain lands therein described.

Preamble.

Whereas many of the citizens of this state, on making entries of lands near the respective county lines where they reside, either for a want of a proper knowledge of the land laws of the state, or not knowing the county lines, have frequently made entries and extended their surveys on such entries into other counties than those where they were made, and obtained grants on the same :

And whereas doubts have existed with respect to the validity of the titles to lands situated as aforesaid, so far as they extend in other counties than those where the entries were made : For remedy whereof,

Certain grants
valid.

Be it enacted, &c. That all grants issued on entries made for land situated as aforesaid, where the money has been paid into the public treasury, shall be good and valid against any entries which may be hereafter made or grants issued thereon, any law usage or custom to the contrary.

CHAP. 676.

An act relative to lands sold for taxes. (b)

(b See 1798,
c. 492.)

Lands sold for
taxes redeemable.

Be it enacted, &c. That all lands which may hereafter be sold by any sheriff in this state, for the non-payment of taxes due thereon by virtue of law, the person or persons, their heirs, executors and administrators, owning such land, shall be permitted to redeem such land or lands from the purchaser or purchasers at any time within twelve months after such sale is made, by paying or tendering in payment to such purchaser or purchasers, the full amount which he or they gave to such sheriffs, and twenty-five per cent. on the purchase money, and all costs of sale accruing thereupon : *Provided*

always, That no person bidding off any lands sold as aforesaid, shall proceed to survey the part so bought until one year^(a) after such sale: but if the same is not redeemed within the term aforesaid, then it shall be the duty of such person purchasing the same, to survey and perfect his title to such land so sold within the time, and in such manner as heretofore pointed out by law, any law, usage or custom to the contrary notwithstanding.

Land sold for taxes not to be surveyed in less than one year after.

(a See 1808, c. 760—time given to survey, &c.)

CHAP. 677.

An act to repeal an act, entitled “An act to repeal so much of the several laws now in force in this state, as grants power to the trustees of the University of North-Carolina, to seize and possess for the use of the said University, any escheated or confiscated property.”

(See 1800, c. 548.)

Be it enacted, &c. That an act, entitled “An act to repeal so much of the several laws now in force in this state as grants power to the trustees of the University of North-Carolina to seize and possess for the use of the said University any escheated and confiscated property,” so far as relates to the escheated property, be and the same is hereby repealed and made void.

Act repealed.

CHAP. 678.

An act appointing the governor for the time being president of the board of trustees of the University of North-Carolina.

(See 1789, c. 305 and 306.)

1. *Be it enacted, &c.* That the governor of the state for the time being, shall be and he is hereby declared to be president of the board of trustees of the University of North-Carolina, and as such shall preside at all meetings of said board: *Provided always*, That if by reason of indisposition or other good cause, the governor shall be unable to attend any of the meetings of the said board, he may, by some instrument of writing signed with his proper hand, appoint some other person, being a trustee, to act as president for the time being, who shall accordingly preside as such in the absence of the governor.

The governor to be president of the board of trustees of the University.

2. *And be it further enacted*, That in case any member of the board of trustees of the said University shall

How a trustee's seat may be vacated.

fail to give his personal attendance at any of the meetings of said board for the term of two years, the said board of trustees shall be, and are hereby declared to be vested with power and authority, if they deem the same expedient, to consider the seat of such member as vacated, and cause the same to be reported to the General Assembly; whereupon the vacancy or vacancies so occasioned, shall be filled up by joint ballot of both houses.

CHAP. 679.

(a See 1799,
c. 532.)

An act to amend an act, entitled "An act to prevent actions from abating in certain cases."(a)

Preamble.

Whereas doubts are entertained whether, by the above recited act, actions which are, or shall be instituted for the recovery of injury done to real or personal property, can be revived in the name of, or against the representatives of any deceased plaintiff or defendant, where the property itself shall not be in dispute: For remedy whereof,

In what cases
actions shall not
abate.

Be it enacted, &c. That from and after the passing of this act, no action of trespass *vi et armis*, or trespass on the case, instituted, or which shall hereafter be instituted, in any of the courts of this state, to recover damages done to property, either real or personal, shall abate by the death of either plaintiff or defendant; but the same may be revived in behalf of, or against the representatives of any deceased plaintiff or defendant, under the rules and regulations prescribed for the revival and continuance of other actions; any law, usage or custom to the contrary notwithstanding.

CHAP. 680.

(b See 1791,
c. 350.)

An act to alter and amend a part of the fifth section of an act, entitled "An act directing in what manner any person who heretofore has, or who hereafter may enter lands in any county in this state, shall be entitled to have his or her certificates returned."(b)

Preamble.

Whereas, agreeable to the before recited act, it frequently becomes very difficult for the honest claimant

to obtain the benefit intended to be given by the said act: For remedy whereof,

Be it enacted, &c. That so much of the before recited act as requires the deposition of surveyors to be taken in open court, and certified by the clerk of said court, that respects those entries and surveys, when the purchase money has not been paid into the office, shall be void and of no effect.

Part of the recited act repealed.

2. *And be it further enacted,* That in future, the oath prescribed in the before recited act, for the surveyors to make in open court in cases of deficiency where no money has been paid, it shall and may be lawful to be taken before any two justices out of court, which deposition, when so taken and certified under the hand and seal of such justice, shall be a sufficient voucher to the treasurer in the settlement of his accounts with the comptroller for such deficiency; any law, usage or custom to the contrary notwithstanding.

Oath prescribed in former act may be taken before two justices.

CHAP. 681.

An act to prevent inspectors from being concerned in trade, or the exportation of commodities liable to inspection.

(See 1777, c. 120, s. 10—1784, c. 206—1793, c. 368.)

1. *Be it enacted, &c.* That from and after the passing of this act, no merchant who shall be concerned in trade, and in the purchase of produce for exportation which the laws require to be inspected, shall be considered qualified to be appointed as inspector of any of the articles of produce which by law are, or shall be required to be inspected. And if any person receiving an appointment as aforesaid, shall be concerned as a merchant in the exportation of produce, he shall forfeit the sum of thirty pounds, to be recovered by action of debt, in the name of the governor, in any court of record having jurisdiction thereof; one-half to the use of the state, and the other half to the use of the informer: And the person so offending shall moreover be removed from office by the county court of the county in which he resides, on motion made by the solicitor of the county, and on producing the record of the recovery of the penalty above mentioned.

No merchant shall be appointed an inspector.

Forfeiture on inspectors being concerned in exportation.

2. *And be it further enacted,* That if any inspector already appointed shall, after the first day of March

Forfeiture on any inspector being concerned in the exportation of produce.

Number of inspectors to be appointed in any town.

next, inspect, or be concerned in the inspection, of any produce bought or sold on his own account for exportation, he shall forfeit and pay the like sum of thirty pounds, to be recovered and applied in like manner; and shall also be subject to be removed from office in manner herein before directed: *Provided nevertheless*, That nothing herein contained shall be considered as applying to shopkeepers, or others, who do not buy or sell produce for exportation.

3. *And be it further enacted*, That it shall not be lawful for any of the county courts in this state, to appoint in any of the towns, more than six inspectors; except for the purpose of inspecting lumber, in which case the courts respectively may appoint such number as they may consider necessary and proper.

CHAP. 682.

(a See 1795, c. 446, s. 2.)

An act to amend the second section of an act of the Assembly, of one thousand seven hundred and ninety-five, (a) entitled "An act directing the manner in which the clerks of the several superior and county courts shall hereafter make their returns to the comptroller.

Expresses sent by the comptroller to have additional compensation.

Be it enacted, &c. That in future, all expresses sent by the comptroller, in pursuance of the before recited act, shall be entitled to receive for their services, in addition to the sum already allowed by law, the sum of twenty-five shillings for the day they shall arrive at the clerk's house or office, and the like sum for every day the clerk shall detain them in making out his returns; which shall be paid in the same manner as the mileage allowed to expresses under the before recited act, now is.

CHAP. 684.

An act to prevent vice and immorality, by declaring the offences therein contained to be the subject of indictment.

Preamble.

Whereas the policy of all well-regulated governments requires the criminal law to be positive and certain; and as doubts have arisen as to the power of punishing by

indictment,(a) those who commit the crimes of fornication or adultery ;

(a See 1741, c. 30, s. 9.)

Be it enacted, &c. That from and after the passing of this act, the aforesaid crimes of fornication and adultery, where a man shall take a woman into his house, or a woman a man, and they shall have one or more children without parting or an entire separation, or where it shall be proved to the satisfaction of the court and jury before whom it shall be tried, that they bed or cohabit together, shall be deemed and held indictable offences, and cognizable before any of the superior or county courts in this state. And any person legally convicted of either of the aforesaid offences, shall be fined at the discretion of the court before whom he or she may be tried, in any sum not exceeding one hundred pounds: *Provided always*, That the evidence of the person who may be *particeps criminis*, shall not be admitted to charge any defendant under this act.

Crimes of fornication and adultery shall be indictable offences.

CHAP. 685.

An act to compel the attendance of witnesses in certain cases therein mentioned.

1. *Be it enacted, &c.* That in all cases where witnesses are required to attend any commissioners, referees, or order of survey, a summons shall be issued by the clerk of the court, at the request of either party, or their agent, expressing the day and place where they are to appear, the names of the parties to the suit, and in whose behalf summoned.

Witnesses to attend commissioners, referees and surveys.

2. *And be it further enacted*, That all witnesses summoned in pursuance of this act, shall be entitled to the same privileges, and receive the same pay for their attendance, and be subject to the same pains and penalties for non-attendance as witnesses summoned to attend the county courts.

Witnesses thus summoned to receive same pay, &c. as others.

CHAP. 686.

An act to amend an act passed in one thousand eight hundred and four, entitled "An act(*a*) to amend an act, entitled, An act concerning proving of wills and granting letters of administration, and to prevent frauds in the management of intestates' estates, passed in the year one thousand seven hundred and eighty-nine."(*b*)

(*a* See 1804, c. 666.)

(*b* See 1789, c. 308.)

Preamble.

Whereas by the before recited act, no mode is provided by which executors or administrators, who, prior to the said act, have advertised agreeable to the act of one thousand seven hundred and eighty-nine, may perpetuate the evidence of such advertisement :

How executors or administrators who shall have advertised, may establish the same.

Be it therefore enacted, That every executor or administrator who shall have advertised agreeable to the act of one thousand seven hundred and eighty-nine, may, within nine months from the passing of this act, establish the same in the manner prescribed by the act of one thousand eight hundred and four, and such notice so proved shall be admitted as evidence in any court of law or equity, or before any jurisdiction.

CHAP. 687.

An act to amend an act, (*c*) passed at Newbern in the year one thousand seven hundred and ninety-one, entitled, "An act to amend an act concerning proving of wills and granting letters of administration, and to prevent frauds in the management of intestates' estates."

(*c* See 1791, c. 341.)

Preamble.

Whereas by the above recited act, all administration bonds that should be taken after the twentieth day of May the next following, should be taken and made payable to the chairman of the court for the time being, and his successors in office, yet for a want of a more special knowledge of the said act, and the provisions and directions therein contained, many administration bonds were therefore taken and made payable to the Governor for the time being, and his successors, whereby doubts have arisen whether any action at law can be maintained on such bonds : For remedy whereof,

How administration bonds, taken after 20th May, 1792, made payable to the governor,

Be it enacted, &c. That all administration bonds taken and made payable to the governor and his successors, after the aforesaid twentieth day of May, in the year one thousand seven hundred and ninety-two, may be put in suit in the name of the Governor for the time being, by any person injured, without any assignment, and

judgment shall and may be recovered thereon in any of the courts of record in this state, any thing in said act to the contrary notwithstanding. may be put in suit.

CHAP. 688.

An act granting further time for proving and registering bills of sale and deeds of gift. (a See 1803, c. 643, 1808, c. 762.)

Be it enacted, &c. That all bills of sale taken, and deeds of gift made and not already recorded in manner required by law, shall have until the first day of January, in the year one thousand eight hundred and eight, allowed for probate and registration, and shall, when thus authenticated and perpetuated, be held and deemed as valid to all intents and purposes, as if they had been proved and registered within the time required by an act passed at Fayetteville in the year one thousand seven hundred and eighty-nine; any law to the contrary notwithstanding.

Till January, 1808, allowed for proving and registering bills of sale, &c.

CHAP. 689.

An act to amend the third section of an act passed in the year one thousand eight hundred and one, concerning wrecks. (b See 1801, c. 599, 1817, c. 953.)

Whereas many disputes and much inconvenience happens by there being no person authorised by law to superintend the sales of such property as may be stranded, on the sea coast within the counties mentioned in the before recited act.

Preamble:

1. *Be it enacted, &c.* That in future, the commissioners in each of the counties of Currituck, Carteret, Onslow, New-Hanover and Brunswick, shall be deemed the proper officers to advertise and expose to sale at public auction, any cargo or cargoes which may be stranded or cast on shore in his or their respective districts, except the captain, owner, merchant or consignee shall choose to superintend such sale himself, or to remove the property without selling it. And each commissioner aforesaid shall provide himself with books sufficient, and shall record in them all such sales by him made, and shall deliver to the captain, owner or merchant, or other person concerned, a true account of any such sale or

Commissioner to advertise and sell stranded cargoes.

Except the captain, &c. choose to superintend the sale.

sales which shall have been made. And the said commissioner shall receive for such service two and a half per cent. on the amount of all such sales.

No U. S. officer
to be a commis-
sioner.

2. *Be it further enacted*, That no person who shall hold any office or deputation under the United States, shall act as a commissioner in either of said counties.

3d section of
former act re-
pealed.

3. *And be it further enacted*, That the third section of the before recited act is hereby repealed and made void.

CHAP. 690.

(1788, c. 285.) An act to prevent the masters and owners of vessels and boats, and other persons from trading with slaves.

Penalty for
trading with
slaves.

Be it enacted, &c. That if, after the passing of this act, any master or owner of any vessel or boat, or any other person belonging to, or on board of any vessel or boat, lying or being within any river, bay, harbour or creek, within the state, shall buy, sell, or carry on any kind of trade or merchandize to and with any slave or slaves, without permission from the master, mistress or owner of such slave or slaves, such master or owner, or other person, so buying, selling, or carrying on trade or merchandize, shall, for every such offence, forfeit and pay the sum of thirty pounds, to be recovered before any jurisdiction having cognizance of the same; any law, usage or custom to the contrary notwithstanding.

CHAP. 691.

(a See 1783, c. 194, 1798, c. 515, 1806, c. 711.) An act better to regulate and ascertain the pilotage which shall be allowed the pilots at Occacock Inlet, in the several sounds and rivers to which they take vessels that do not belong the state of North-Carolina.(a)

Preamble.

Whereas great inconveniencies have arisen to pilots from masters of vessels that do not belong to the state of North-Carolina: For remedy whereof,

Rates to be al-
lowed for pilot-
age.

Be it enacted, &c. That from and after the passing of this act, all pilots legally authorised to take charge of vessels to bring in over Occacock bar, or up to either of the ports of Newbern, Washington, Edenton or Camden, or offering to take such charge, if no other authorised pilot is on board said vessel, shall be entitled to

demand and receive from the commander of such vessel or vessels as they may have charge of, the following pilotage, to wit : For every vessel or vessels not belonging to the state of North-Carolina, provided such vessel or vessels be above forty tons burthen, from the outside of the bar, at any distance within the limits of pilot ground to Beacon Island Road or Wallace's channel, if drawing less than eight feet water, seven dollars ; and for all vessels drawing eight feet water, and less than ten feet, one dollar for every foot ; and for all vessels drawing ten feet and upwards, one dollar and fifty cents per foot ; and two dollars for each vessel over either of the swashes ; and from the swash straddle to either of the ports of Newbern or Washington, one dollar and fifty cents per foot, and from the swash straddle to Edenton, fifteen dollars, and to Camden, twelve dollars and fifty cents, and the same allowances down and out, as in and up ; any laws, usage or custom to the contrary notwithstanding.

CHAP. 692.

An act to annex part of Pitt county to the county of Martin.

Be it enacted, &c. That from and after the passing of this act, all that part of Pitt county bounded as follows, shall be annexed to the county of Martin, viz. Beginning where the present county line intersects the fork of Trentross Creek and Flat Swamp, thence along Flat Swamp to where the present county line crosseth said swamp ; and all that part of Pitt county lying north of the before recited boundaries shall hereafter be part of Martin county, and under the same rules and regulations and restrictions as the county of Martin is or may be : *Provided*, nothing herein contained shall prevent the sheriff of Pitt county from collecting the taxes due him from said inhabitants, any law to the contrary notwithstanding.

Part of Pitt
county added to
Martin.

Read three times and ratified in General Assembly, }
the 21st day of December, Anno Dom. 1805. }

ALEX. MARTIN, S. S.
S. CABARRUS, S. H. C.

Nathaniel Alexander, Esq. governor.

At a General Assembly, begun and held at Raleigh, on the seventeenth day of November, in the year of our Lord one thousand eight hundred and six, and in the thirty-first year of the independence of the said state.

CHAP. 693.

An act for the more uniform and convenient administration of justice within this state,

Preamble.

Whereas the delays and expenses inseparable from the present constitution of the courts of this state do often amount to a denial of justice, the ruin of suitors, and render a change in the same indispensibly necessary :

A superior court to be established in each county.
(a See 1807, c. 712, s. 4, 1808, c. 741, 1809, c. 765.)

The state to be divided into six circuits.

1. *Be it enacted, &c.* That a superior court shall be held at the court-house in each county in the state twice in every year, which courts shall have the same jurisdiction that the present superior courts of law and courts of equity now have and exercise.(a)

2. *And be it further enacted,* That the state shall be divided into six circuits; the first circuit to be composed of the counties of Currituck, Camden, Pasquotank, Perquimons, Chowan, Gates, Hertford, Bertie, Washington and Tyrrel; the second circuit to be composed of the counties of Jones, Carteret, Onslow, Duplin, Wayne, Greene, Lenoir, Craven, Beaufort and Hyde; the third circuit to be composed of the counties of Pitt, Edgecomb, Nash, Johnston, Wake, Franklin, Warren, Halifax, Northampton and Martin; the fourth circuit to be composed of the counties of Chatham, Randolph, Rowan, Stokes, Rockingham, Guilford, Caswell, Person, Granville and Orange; the fifth circuit to be composed of the counties of Montgomery, Anson, Richmond, Moore, Robeson, Cumberland, Bladen, Brunswick, New-Hanover and Sampson; and the sixth circuit to be composed of the counties of Surry, Wilkes, Ashe, Buncombe, Rutherford, Burke, Lincoln, Iredell, Cabarrus and Mecklenburg.

Times of holding the courts.

(b Altered by 1819, c. 989.)

3. *And be it further enacted,* That the courts in the counties composing the first circuit shall be held on the following times, to wit,(b) Currituck to begin the first Monday of March and September, Camden the second Monday of March and September, Pasquotank the third Monday of March and September, Perquimons the fourth Monday of March and September, Chowan the

first Monday after the fourth Monday of March and September, Gates the second Monday after the fourth Monday of March and September, Hertford the third Monday after the fourth Monday of March and September, Bertie the fourth Monday after the fourth Monday of March and September, Washington the fifth Monday after the fourth Monday of March and September, Tyrrel the sixth Monday after the fourth Monday of March and September. The courts in the counties composing the second circuit shall be held on the following times, to wit, (a) Carteret the first Monday of March and September, Jones the second Monday of March and September, Onslow the third Monday in March and September, Duplin the fourth Monday in March and September, Wayne the first Monday after the fourth Monday in March and September, Greene the second Monday after the fourth Monday in March and September, Lenoir the third Monday after the fourth Monday in March and September, Craven the fourth Monday after the fourth Monday in March and September, Beaufort the fifth Monday after the fourth Monday in March and September, Hyde the sixth Monday after the fourth Monday in March and September. The courts in the counties composing the third circuit shall be held on the following times, to wit, Pitt the first Monday in March and September, Edgecomb the second Monday in March and September, Nash the third Monday in March and September, Johnston the fourth Monday in March and September, Wake the first Monday after the fourth Monday in March and September, Franklin the second Monday after the fourth Monday in March and September, Warren the third Monday after the fourth Monday in March and September, Halifax the fourth Monday after the fourth Monday in March and September, Northampton the fifth Monday after the fourth Monday in March and September, Martin the sixth Monday after the fourth Monday in March and September. The courts in the counties composing the fourth circuit shall be held on the following times, to wit, Granville the first Monday in March and September, Person the second Monday in March and September, Orange the third Monday in March and September, Chatham the fourth Monday in March and September, Randolph the first Monday after the fourth Monday in March and September, Rowan the

(a Altered by
1819, c. 986.)

second Monday after the fourth Monday in March and September, Stokes the third Monday after the fourth Monday in March and September, Guilford the fourth Monday after the fourth Monday in March and September, Rockingham the fifth Monday after the fourth Monday in March and September, Caswell the sixth Monday after the fourth Monday in March and September. The courts in the counties composing the fifth circuit shall be held on the following times, to wit, Montgomery the first Monday in March and September, Anson the second Monday in March and September, Richmond the third Monday in March and September, Robeson the fourth Monday in March and September, Bladen^(a) the first Monday after the fourth Monday in March and September, Brunswick^(a) the second Monday after the fourth Monday in March and September, New-Hanover the third Monday after the fourth Monday in March and September, Sampson the fourth Monday after the fourth Monday in March and September, Cumberland the fifth Monday after the fourth Monday in March and September, Moore the sixth Monday after the fourth Monday in March and September. The courts in the counties composing the sixth circuit shall be held on the following times, to wit, Surry the first Monday in March and September, Ashe the second Monday in March and September, Wilkes the third Monday in March and September, Burke the fourth Monday in March and September, Buncombe^(b) the first Monday after the fourth Monday in March and September, Rutherford the second Monday after the fourth Monday in March and September, Lincoln the third Monday after the fourth Monday in March and September, Iredell the fourth Monday after the fourth Monday in March and September, Cabarrus the fifth Monday after the fourth Monday in March and September, Mecklenburg the sixth Monday after the fourth Monday in March and September.

4. *And be it further enacted*, That the said superior courts shall be held by the judges now in office, and their successors, and those to be appointed by virtue of this act, and shall continue their sittings from day to day, for six days,^(c) should the business of the courts require it.

(a See 1816, c. 917—Columbus established.)

(b See 1813, c. 861—Haywood established—time of Rutherford and other courts in the circuit altered.)

To be held by the judges, who shall sit for six days.

(c The length of the session of the court has been altered—in some counties increased, and in some diminished.)

5. *And be it further enacted*, That there shall be appointed by joint ballot of both houses of the General Assembly, two judges, in addition to those who are now judges of law and courts of equity of the present superior courts, who shall be entitled to the same salary, (a) and have and exercise the same powers and authorities as the judges of the present superior courts of law and courts of equity have hitherto had and exercised.

Two additional judges.

(a See 1808, c. 744, 1818, c. 963, s. 12.)

6. *And be it further enacted*, That the said judges shall, in such manner as may be agreed on between themselves, attend the superior courts by this act established in rotation, (b) so that they shall not attend the same courts twice in succession.

Judges to attend courts in rotation.

(b 1818, c. 963, s. 10.)

7. *And be it further enacted*, That, in addition to the present attorney and solicitor-general, there shall be appointed by joint ballot of both houses of the General Assembly, four solicitors, to attend and prosecute in behalf of the state, in the respective circuits for which they shall be appointed.

Four additional solicitors.

8. *And be it further enacted*, That the attorney-general shall attend and prosecute in behalf of the state in the superior courts composing the third circuit, and that the solicitor heretofore appointed shall attend the superior courts composing the fourth circuit. And the attorney and solicitor-general, together with the solicitors appointed under this act, shall receive the sum of ten (c) pounds for each and every court they shall attend; to be paid by the treasurer on their producing a certificate from the clerk of their attendance, together with the fees arising on state prosecutions, which shall be in full compensation for their services.

The duty of the attorney-general and solicitors, and salary.

(c See 1818, c. 973, s. 2.)

9. *And be it further enacted*, That the county courts shall retain the same powers and jurisdictions which they heretofore have had, and shall be held four times in each and every year, as they heretofore have been held. And the sheriffs of the county courts shall be the sheriffs of the superior courts by this act established: *Provided always*, That no county court within this state shall be obliged to summon jurors to attend their said courts more than twice in each and every year, unless the business of the said courts shall so require.

County courts to retain their jurisdiction but not obliged to summon jurors more than twice a year.

10. *And be it further enacted*, That the several judges of the superior courts by this act established, shall appoint clerks and clerks and masters in equity, of skill and probity of the several respective courts hereby esta-

Judges to appoint clerks, &c.

blished : *Provided nevertheless*, That the persons so appointed shall be residents within said county at the passing of this act, and continue to reside within the same during their continuance in office, who shall be subject to the same rules, regulations, and penalties as the clerks of the superior courts and clerks and masters of the courts of equity heretofore established by law.

Justices of the county courts to appoint jurors.

(a See 1817, c. 938.)

11. *And be it further enacted*, That the justices of the several county courts in this state, shall, at the respective courts next preceding the sitting of the superior court in their respective counties, appoint thirty jurors, (a) who shall be summoned by the sheriff to attend the said superior court, in the manner prescribed by law : *Provided nevertheless*, That if any of the said courts should happen within thirty days of the sitting of the superior court of their county, the justices of the said county court shall appoint the jurors aforesaid at the court preceding ; and that the said jurors shall be liable for non-attendance as jurors are in the present superior court.

Causes may be removed to an adjacent court.

(b Altered by 1808, c. 745 : facts must be stated. 1813, c. 853, by consent.)

12. *And be it further enacted*, That in all causes, whether civil or criminal, which shall be pending in any of the said courts established by this act, in which it shall be suggested, on oath or affirmation, on behalf of the state or the traverser of the bill of indictment, or of the plaintiffs or defendants in said causes, that there are probable grounds (b) that justice cannot be obtained in the county in which said causes shall be pending, that then and in that case the judge of said court is hereby authorised to order a copy of the record of said cause to be removed to some adjacent court for trial : *Provided always*, That all state causes now depending in any of the present superior courts, shall be tried in the superior courts of the counties where the district towns are situated.

Causes pending in the present superior courts to be transferred to the counties.

13. *And be it further enacted*, That all civil causes pending in the present superior courts of law and courts of equity, shall be transferred with the process and proceedings therein, to the superior court of the county where the plaintiff resides, except causes in which the plaintiff or defendant resides out of the district, and in such cases the causes shall be transferred to the superior courts of the county where the district court is now held ; except also, actions of ejectment and trespass, quare clausum

regit, which shall be transferred to the superior court of the county where the land is situated.

14. *Be it further enacted*, That the clerks and clerks and masters in equity of the present superior courts of law and courts of equity, shall be clerks and clerks and masters in equity in the courts by this act established, in the counties respectively in which their offices are now kept, and the clerks and clerks and masters in equity of the several superior courts of law and courts of equity, shall be entitled to all the fees already accrued on the said suits so to be transferred.

The present clerks to remain in the counties where their offices are kept.

15. *And be it further enacted*, That all the civil business of the state, instituted by the treasurer, shall be tried in the superior court held in and for the county of Wake in the city of Raleigh.^(a)

State business to be tried at Raleigh.
(a This section repealed, see 1808, c. 744.)

16. *And be it further enacted*, That the fees of attorneys, clerks and sheriffs for pleading and acting in said superior courts, shall not exceed those already established by law for pleading and acting in the county courts of pleas and quarter sessions.

Fees.

17. *And be it further enacted*, That the several county courts in this state shall have the same power to allow pay to the jurors of the superior courts by this act established, as they now have respecting the county court jurors.

Pay of jurors.

18. *Be it further enacted*, That all laws and clauses of laws that come within the purview and meaning of this act, be repealed and made void.

Former laws repealed.

CHAP. 694.

An act amendatory and supplemental to an act, entitled, "An act for the more uniform and convenient administration of justice," passed at the present session of this General Assembly.

1. *Be it enacted, &c.* That at the first term at which the several county courts of pleas and quarter sessions shall be held within this state after the first day of January next, and once at least in every three years thereafter, it shall and may be lawful for each and every of the said county courts, and they are hereby directed and required, to cause the jury lists to be made up from the tax returns^(b) of such county for the preceding year, which tax returns shall be furnished by the clerk of said

Manner of appointing jurors.

This section altered.

(b See 1807, c. 712, s. 1, 2, 3.)

county, whenever thereto required by said court; and the justices attending at such court, shall cause therefrom to be transcribed, the names of all such persons who are by law qualified to serve as jurors, (except those who from age, infirmity, or from any other cause, may be unfit to serve as jurors) whose names shall be written on small scrolls of paper of equal size and put into a box to be procured for that purpose, which shall have two divisions marked No. 1 and 2, and two locks, the key of one to be safely kept by the sheriff of the county, the other by the chairman of the county court, and the box by the clerk of said court; and the said justices at each and every session of their said court, which shall happen next preceding the sitting of the superior court of the said county, shall cause to be drawn from the said jury box, out of the partition marked No. 1, by a child not more than ten years of age, thirty persons, who shall serve as jurors at the next succeeding superior court to be held for said county: *Provided always*, That whensoever the county court of such county shall be held within fifteen days of the sitting of the superior court of the same, that then the court preceding such county court shall draw the jury as aforesaid. *And provided further*, that in case any of the jurors so drawn shall have a suit pending and at issue in the superior court, the several scrolls with his or their names, shall be returned into the partition No. 1, of the jury box, or if any of said persons so drawn shall be dead or removed out of the county, the said scrolls with his or their names to be destroyed, and other jurors shall be drawn in his or their stead: and the scrolls drawn as aforesaid, shall be put into the partition marked No. 2; and the clerk shall furnish the sheriff with a list of the jurors so drawn, who shall be bound to summon the same to attend at the court for which they are appointed, under the same rules, regulations and penalties, as are now by law established for the summoning of jurors; and the said jurors shall be bound to attend said court in the same manner and shall be subject to the same forfeitures as heretofore for non-attendance: *Provided further*, that if before the expiration of three years, the names of the jurors in the partition No. 1, shall be drawn out, then the whole names shall be put into the said partition marked No. 1, and drawn out again as herein first directed. And there shall also be put

into said partition marked No. 1, at the court following every first day of January in each year, the names of such persons as shall appear, by the tax lists immediately preceding, to have become qualified to serve as jurors since the making out of the general triennial list, subject however to the exceptions in the first section of this act.

2. *And be it further enacted*, That if some one of the judges of the said superior court shall not attend and hold each of the superior courts, in this state on the day by law prescribed for holding such courts, the sheriff of the county, or his lawful deputy, shall open and adjourn such court from day to day, until one of the said judges shall attend and hold the same, or until the third day appointed for the holding thereof, on which said third day, the sheriff or his said lawful deputy, shall adjourn the same unto the next court, to which time all actions, pleas, process and other matters pending in the said court, shall be continued and have day, as if the said court had been duly held.

If a judge fail to attend, the sheriff to adjourn the court from day to day till third day.

3. *And be it further enacted*, That the first court to be held under the said act, shall commence on the first Monday in March next, and the first circuits or ridings be performed as follows, and thereafter as directed by the aforesaid act: the courts in the first riding shall be holden by David Stone, Esquire; the courts in the second riding shall be holden by John Louis Taylor, Esquire; the courts in the third riding shall be holden by John Hall, Esquire; the courts in the fourth riding shall be holden by Spruce Macay, Esquire; the courts in the fifth riding shall be holden by Samuel Lowrie, Esquire; the courts in the sixth riding shall be holden by Francis Locke, Esquire. And the said several judges shall appoint the clerks and clerks and masters in equity within their respective circuits or ridings. And it shall be the duty of the clerks and clerks and masters in equity, to take the oath of office, and give bonds as by law prescribed necessary for their qualification, before the judge holding the superior court in each county.

Manner of performing the first circuits.

4. *And be it further enacted*, That in all cases where any person or persons are bound in recognizance to appear and answer to any charges to be alleged against them, to prosecute in behalf of the state, to give evidence, or for other causes; and by virtue of their said

Persons bound by recognizances, &c. to appear at the former superior courts, to ap-

pear and enter into fresh recognizances to appear at the county superior court.

recognizances, are to appear on the days on which the former superior courts respectively were to have been holden, that it shall be the duty of the several clerks of the said courts respectively, (who are now, by an act passed this present session of the Legislature, entitled, "An act for the more uniform and convenient administration of justice within this state," constituted clerks of the superior courts to be holden in the several counties in which the former superior courts were holden, and in which their respective offices are now situated,) to attend at their respective court-houses on the days on which the said former superior courts were to have been holden, and on the days on which the above description of persons recognized to appear, and then and there, from day to day, for the space of ten days, to call out all such persons so bound as aforesaid. And it shall be the duty of the said clerks respectively to recognize all such persons so bound as aforesaid, and who shall appear and answer on said days, to appear and answer, to prosecute or give evidence, as the cases may be, at the superior courts to be holden in the said counties respectively, agreeably to the above recited act, and which shall happen next after said days, that they may be so bound. And in all cases where any of such persons shall appear and refuse to be bound as aforesaid, or refuse or fail to give sufficient security whenever the same is requirable and required by the said clerks, for their appearance at the next superior court, to be holden in said counties respectively, it shall be the duty of the said clerks, and they are hereby authorised and directed to commit such persons to the gaols of their respective counties, until the times the superior courts by the above recited act shall happen, or until such person or persons give such security as aforesaid; and in all cases where any of the above descriptions of persons shall fail to appear, it shall be the duty of the said clerks respectively to note their recognizances as forfeited, and to proceed thereon by issuing scire facias returnable to the first superior courts to be holden in their respective counties hereafter (agreeably to the above recited act,) to shew cause, if any they have, why the said recognizances should not be absolutely forfeited, and for which services the said clerks shall have such fees as for the same they were heretofore entitled to by law.

3. *And be it further enacted,* That it shall be the duty of the said clerks respectively, to transmit to the several county court clerks, the records, papers and all proceedings, by some safe conveyance, of all such causes, matters and things as by the above recited act are to be tried in the superior courts of the counties. And it shall be the duty of the said county court clerks respectively, to receive and safely keep the same until the judge shall appoint clerks and clerks and masters in equity in the said counties for said superior courts, and to deliver the said records, papers and proceedings, to the said clerks and clerks and masters in equity so appointed, who shall docket the same, according to their respective numbers for trial. And the said clerk, so transmitting the said records, papers and proceedings, shall receive for their trouble the sum of twenty-five shillings in each and every cause by him transmitted as above directed, to be paid by the party east on the final decision of such cause.

Present superior court clerks to transmit the records to the counties.

6. *Be it further enacted,* That any clerk or clerk and master in equity of the present superior courts of law and equity, who shall fail, refuse or neglect to perform his duty in transferring the suits as required by the before recited act, in manner as directed by this act, shall be deemed guilty of a misdemeanor in office, and on conviction shall be removed therefrom, and be further liable to pay the sum of five hundred pounds for each failure or neglect, one-half to the use of the state, and the other half to the use of the party injured.

Penalty for neglect.

7. *And be it further enacted,* That in all civil suits, directed by the aforesaid act to be transmitted to the superior courts in the different counties within this state, it shall and may be lawful for the parties, either plaintiff or defendant, their agent or attorney, to apply to the clerk of the county court within the said county, to issue subpoenas for all such witnesses as may be necessary for him or them on the trial of such cause. And the clerks of the said county court are hereby authorised and required to issue such subpoena or subpoenas, returnable to the first day of the superior court to be holden in their respective counties, on application as aforesaid. And the several sheriffs within the said counties are hereby authorised and required to execute and make due return of all such subpoenas. And the witness or witnesses so summoned, shall be subject to

Directions for issuing subpoenas.

the same penalties for non-attendance, and be entitled to the same pay as is hereafter provided for the compensation of witnesses attending under subpoena.

Provision for appointing jurors where a county court is not held.

8. *And be it further enacted,* That the sheriffs of the several counties within this state in which a county court shall not be regularly holden between the rise of the present General Assembly, and fifteen days before the day appointed by the above recited act for the holding of the superior court in such county, to summon seven or more justices of the peace of said county to convene together at the court-house in said county, which justices so convened, or any five of them, shall be authorised to appoint a jury to attend the first superior court to be held for the said county, in the following manner, to wit: The said justices shall cause to be written on small scrolls of paper of equal size, the names of one hundred and twenty persons, properly qualified to serve as jurors, from which shall be drawn thirty persons, who shall be, and hereby are declared to be legal and qualified jurors to serve at the said first court to be held for said county. And the said justices are hereby required to furnish the sheriff with a list of the names so drawn to serve as jurors; and the said sheriff shall be bound to summon the same to attend the said court, under the same rules, regulations and penalties as are now by law established for summoning jurors. And the said jurors shall be bound to attend said court in the same manner, and shall be subject to the same forfeitures for non-attendance as heretofore.

Allowances to witnesses.

(See 1819, c. 1023.)

9. *And be it further enacted,* That each person who shall attend any of the courts established by the before recited act, as a witness in any cause therein depending, shall be allowed for each and every day's attendance, and for every thirty miles he or she shall travel going to and returning from the said court, six shillings provided the said witness resides within the county wherein the suit is tried, or the sum of ten shillings, if such witness lives out of said county, to be paid as heretofore directed by law.

Proper seals for each court to be provided by the governor.

10. *And be it further enacted,* That proper seals for each and every court by the said act established, shall be provided by the governor of this state, and the expense incurred in procuring the same, shall be paid on a warrant drawn by the governor on the public treasurer; and the seals heretofore provided shall remain

in the offices to which they respectively belong, for the purpose of attesting the records of the present district superior courts of law and equity.

11. *And be it further enacted,* That the clerks and clerks and masters of the present district superior courts of law and courts of equity, shall have full power and authority to issue executions and all other necessary process on all judgments and decrees, now had or which may hereafter be had or made in any of the said courts, previous to the first Monday in March next, and may continually thereafter issue executions and other necessary process, to carry any such judgments and decrees into full and complete effect. And that all executions which now are, or may hereafter be issued from any of the offices of the district courts, shall be returned to the superior courts of the counties respectively in which the said district courts were held. And until after the commencement of the first term of the respective superior courts of law and courts of equity by the above recited act established, all original and mesne process shall and may be issued by the clerks and clerks and masters in equity of the present district courts, and returnable to the superior courts of law and courts of equity where the same may be triable, according to the provisions of the above recited act.

The present clerks and masters to issue executions, &c.

12. *And be it further enacted,* That whenever any suit shall be directed to be removed from any of the superior courts by said act established, agreeably to the twelfth section of said act, it shall be the duty of the clerk to transmit a transcript of the record of said suit to the court to which the same is directed to be transmitted, together with any depositions or other written evidences which may be filed therein, at least fifteen(a) days before the sitting of the court to which the same shall be directed to be transmitted, for which he shall be allowed the sum of ten shillings, to be paid by the party making application for the removal at the time of filing his, her or their affidavit.

When a suit is directed to be removed, clerk to transmit a copy of the record, &c.

(a Altered as to the time—see 1810, c. 787.)

13. *And be it further enacted,* That the judges to be appointed under the said recited act may, and they are hereby authorised and empowered to take the oaths prescribed by law for their qualification before any judge or justice of the peace; and it shall be the duty of the judge or justice of the peace before whom such judge or judges may qualify, to cause such judge or

Qualification of the judges.

judges to subscribe the oaths by him or them taken, and having certified the same, shall return said oaths to the secretary of state, who shall carefully preserve them: *Provided however*, That the duties and compensation of the said judges shall not commence prior to the first Monday in March next.

CHAP. 695.

An act to raise a revenue for the payment of the civil list and contingent charges of government for the year one thousand eight hundred and seven.

Property appropriated to divine worship, &c. exempted from tax.

(a The other parts of this act are not in force.)

And be it enacted, That from and after the passing of this act, all houses and lots, or other estate real or personal appertaining thereto, set apart and appropriated to divine worship or for the education of youth, shall be and the same are hereby exempted from all taxes whatsoever, any law to the contrary notwithstanding.(a)

CHAP. 696.

(a See 1803, c. 631, 1804, c. 654, 1807, c. 717, 1808, c. 738, 1813, c. 857, 1814, c. 880, 1815, c. 885.)

An act to amend an act, entitled "An act to amend an act passed in the year 1804, entitled An act appointing commissioners to extend the boundary line of this state and the state of South-Carolina," passed at Raleigh in the year 1803.(b)

Preamble.

Whereas by the above mentioned act, power and authority is given to the governor to enter into any compact he may deem most advisable for the interest of the state, with the legislative or executive powers of the states of South-Carolina and Georgia, relative to the extension and establishment of the boundary-line between this state and the said states of South-Carolina and Georgia, in which said act there is a proviso, that nothing therein contained should affect any part or clause of the act passed in the year one thousand eight hundred and three: And whereas doubts are entertained whether the provisionary clause in the act passed in the year one thousand eight hundred and three, is not by the proviso in the act of one thousand eight hundred and four made to have relation to the state of Georgia as well as to the state of South-Carolina: And whereas such provisionary clause can answer no valuable pur-

pose, so far as it respects the state of Georgia, and may be an impediment to an amicable and speedy adjustment and settlement of boundary between the two states :

Be it therefore enacted, &c. That the *proviso* in the act passed in the year one thousand eight hundred and four, entitled "An act to amend an act, entitled An act appointing commissioners to extend the boundary-line of this state and the state of South-Carolina," passed at Raleigh in the year one thousand eight hundred and three, shall not be construed to extend or have any relation to the state of Georgia, any thing therein contained to the contrary notwithstanding.

Proviso in the act of 1804 not to have any relation to the state of Georgia.

CHAP. 697.

An act to exclude from the benefit of clergy, persons robbing houses in the day-time, and to extend the benefit of clergy to women convicted of certain felonies.

Whereas doubts are entertained whether any person convicted of robbing a house in the day time, although no person be therein, is entitled to the benefit of clergy, to remove such doubts, and to provide an adequate punishment for such offences,

Preamble.

1. *Be it enacted, &c.* That if any person or persons shall break any dwelling-house, shop, warehouse or other outhouse thereto belonging, or therewith used, in the day-time, and feloniously take away any money, goods or chattels, of the value of twenty shillings or upwards, therein being, although no person shall be within such dwelling-house, shop, warehouse, or other outhouse, or shall comfort, aid, abet, assist, counsel, hire or command any person or persons to commit such offence, and being thereof lawfully convicted, or being indicted shall stand mute, or peremptorily challenge more than thirty-five jurors, shall suffer death without benefit of clergy. And whereas doubts are entertained whether, by the laws in use and force in this state, the benefit of clergy can be allowed and extended to women convicted of certain felonies ; for the removal whereof,

Cases in which persons breaking houses in the day time, shall be deprived of benefit of clergy.

2. *Be it further enacted,* That in every case where a man being convicted of any felony, may demand the benefit of his clergy, if a woman be convicted of the same or like offence, upon her prayer, to have the benefit of this act, judgment of death shall not be given

Women entitled to benefit of clergy.

Repealing
clause.

against her, but she shall suffer the same punishment as a man should suffer who has the benefit of his clergy allowed him in the like case.

3. *And be it further enacted*, That all acts and parts of acts coming within the meaning and purview of this act, and contrary to the true intent and meaning of this act, are hereby repealed and made void.

4. *And be it further enacted*, That this act shall commence and be in force from and after the passing thereof.

CHAP. 698.

An act directing in what manner the tax on attorneys' licences shall be paid in future.

(a See 1784, c. 220, s. 2.)

Tax on attorneys' license to be paid to the clerk of the court where it is first exhibited.

Clerks to account for the tax.

(b County trustee. See 1809, c. 769, s. 1.)

1. *Be it enacted, &c.* That in future the tax(a) on attorneys' licences shall be paid to the clerk of the court where the attorney shall first exhibit his license for admittance to practise; and no attorney shall be permitted to practise in any court of this state, until he shall produce the receipt of the clerk, shewing that he has paid the tax agreeable to the directions of this act.

2. *And be it further enacted*, That the clerks respectively shall account for the tax received by virtue of this act, with the public treasurer,(b) in the same manner and under the same rules, regulations and restrictions, as they are obliged to account for the taxes on suits, any law to the contrary notwithstanding.

CHAP. 699.

An act more effectually to compel the clerks of courts, the clerks and masters in equity, and the sheriffs in this state, to make the returns required of them by law, and duly to settle and balance their public accounts.

The clerks of superior courts &c. to produce the receipts of their settlement before a renewal of their bonds.

1. *Be it enacted, &c.* That from and after the first day of January next, before any of the clerks of the superior courts, clerks of the county courts, and clerks and masters in equity for this state, shall be permitted to renew their bonds, as required by an act of Assembly passed at Fayetteville in the year one thousand seven hundred and ninety-three, entitled "An act directing the manner of proceeding against the several officers therein men-

tioned,"(a) they shall produce from the public treasurer,(b) county trustee and wardens of the poor, receipts in full of all monies by them received for the use of the state and county, and for which they shall have been accountable.

(a See 1793, c. 384, s. 4, 1819, c. 990.)
(b See 1809 c. 769.)

2. *And be it further enacted,* That in future no person shall be re-elected sheriff of any county in this state, who does not, at the time by law appointed for choosing a sheriff for his county, and before the vote shall be taken, produce to the court receipts from the public treasurer, county trustee and wardens of the poor for the time being, in full of all moneys by him collected, or which ought to have been by him collected, for the use of the state and county, and for which he shall have become accountable; any usage or custom to the contrary notwithstanding.

No person shall be re-elected sheriff who does not first produce receipts of his settlements. (See 1779, c. 156.)

3. *And be it further enacted,* That each and every of the clerks of the county courts in this state, who shall in any year fail to make and convey, or cause to be conveyed to the comptroller in due time and according to law, that is to say, on or before the first day of October annually, a list or certificate of the taxable property of his county for the preceding year, together with a certificate of the names of the sheriff and his securities; he or they so failing, shall for each and every offence or failure, forfeit and pay the sum of five hundred pounds, to be recovered to the use of the state, on motion of the attorney-general or solicitor for the state, in any of the county or superior courts thereof, on the certificate of the comptroller stating such failure; which certificate the comptroller is hereby required to furnish in every case of failure immediately after the first day of October, in each and every year; and the clerk so failing and forfeiting, shall be considered guilty of a misdemeanor in office, and on conviction shall be dismissed accordingly, and shall thereafter be held ineligible to the appointment of the clerkship of his county.

Clerks of the county courts failing in their duty in conveying to the comptroller lists of taxable property, &c. to forfeit 500l.

And the clerks so failing to be dismissed from office.

4. *And be it further enacted,* That on the first day of November next, and on the first day of November in each and every year thereafter, it shall be considered the duty of the public treasurer and comptroller for the time being, to make, certify and hand to the public printer, to be by him published for one month, a list containing the names of all the revenue officers in the state, who shall on that day have failed to account for

A list of the delinquent revenue officers to be annually published.

the public taxes and other moneys due by them for the last year, and which by law are made payable into the treasury on the first day of October preceeding, stating in such list the sum due from each officer respectively for that year; and this they shall consider their indispensable duty to do yearly and every year.

CHAP. 700.

(a See 1715,
c. 7; 1793,
c. 389, s. 4.)

An act to secure creditors against fraudulent and secret conveyances (a) of property by insolvent debtors.

Preamble.

Whereas many frauds are committed by persons making conveyances upon some secret trust, and by persons concealing the property of insolvent debtors, so as to enable them to avoid or delay the payment of their just debts: For remedy whereof,

Course to be taken where the property of a person is fraudulently conveyed to injure his creditors.

1. *Be it enacted, &c.* That upon any judgment rendered, or which shall be hereafter rendered in any court of record in this state, if the plaintiff by himself, his agent or attorney in fact, will make an affidavit stating that the defendant has no visible property to satisfy the same, or on which an execution can be levied, and that he or she has good reason to believe that the defendant has fraudulently conveyed his or her property to avoid or delay the payment of his or her just debts, or that some other person or persons is or are in possession of property belonging to said defendant, and conceals the same, the court in which the said judgment hath been or shall be rendered, shall and may at any time while the said judgment is in force, order a scire facias, or scire facias, as the case may be, to be issued against and served on the person or persons claiming any estate, real and personal, under any such conveyance; or any person or persons charged in the affidavit with concealing any money, goods or other estate, for the use of the defendant, or for the purpose of enabling him or her to avoid or delay the payment of his or her just debts, in which he or they shall be commanded to appear at the next succeeding term, and declare upon oath and in writing, whether he or she holds, or is in possession of, or claims title to any money, goods or other estate, real or personal, under any conveyance made by the defendant upon any secret trust; and whether he or she holds

or is in possession of any money, goods or other estate, or was at the time of rendering said judgment, or at any time since, in possession of any money, goods or other estate, under any secret delivery, to hold the same for the use of the defendant, or any other person, to enable him or her to avoid the payment of his or her just debts; and if the scire facias shall be returned, served by delivering a copy to the party against whom it issues, or by leaving a copy at his or her dwelling, and the party shall appear, the court shall proceed to require a declaration from him or her on oath, as aforesaid; and if the party so called into court shall acknowledge that he or she does hold or claim property of the defendant in manner aforesaid, the court shall and may order the same to be delivered up or made subject to the judgment of the plaintiff; or in case the same or any part thereof shall be money, or in case any part of the property shall have been used, wasted or destroyed by the party, the court may give judgment for the plaintiff against such party, for the amount and value of the money then held, or which has been used, as also for the value of any other property (to be ascertained by a jury) used, wasted or destroyed, and acknowledged as aforesaid to have been received in manner aforesaid, for the use of the defendant, or any other person as aforesaid; but in case any person called into court in manner aforesaid, shall deny that he or she holds or is in possession of, or claims title to any property, real or personal, conveyed or delivered for the purpose of enabling the defendant to avoid or delay the payment of his or her just debts, or that he has held any such property, and used or wasted the same, the plaintiff may, if he or she thinks proper, require an issue to be made up, and the facts tried by a jury, as in other cases, and judgment shall be given accordingly, with costs; and in case any verdict and judgment shall be given in favour of any person called on under any scire facias, or in case he or she shall be discharged by his or her declaration on oath, without the trial of any issue, he or she shall be entitled to the same costs as if he or she had been originally sued in said action.

2. *Be it further enacted*, That in case any scire facias shall be returned served, in manner herein directed, and the party against whom the same issued shall fail to appear, the plaintiff may enter against him or her a

Where the party fails to appear, judgment may be entered by default.

judgment by default; but before executing any writ of enquiry, or entering up any final judgment, a second scire facias shall issue to the party requiring him or her to appear and shew cause why final judgment should not be entered up for the amount of the plaintiff's demand, or the amount which the plaintiff shall in his affidavit state to have been in the hands or possession of such party; for which amount, upon the service of said scire facias in manner herein directed, the plaintiff may enter up judgment against said party, with costs as aforesaid.

Mode of proceeding when judgment given by justice of peace.

3. *And be it further enacted*, That when any judgment shall be given by any justice of the peace out of court, the plaintiff may make an affidavit, in manner herein directed in courts of record, upon which he shall be entitled to carry up to the next succeeding court of pleas and quarter-sessions to be held for the county in which said judgment is given, with the said affidavit, the warrant, judgment, and all papers relating thereto; and upon which the said court, upon motion made by the plaintiff, shall and may order a scire facias in manner herein directed, which shall be proceeded on in the same manner as if the suit had been originally instituted in said court.

Former acts repealed.

4. *And be it further enacted*, That all acts and parts of acts coming within the meaning and purview of this act, are hereby repealed.

CHAP. 701.

(See 1819, c. 1016.)

An act declaring what gifts of slaves shall be valid.

For the prevention of frauds :

No gift of slaves shall be valid, except made in writing.

The writing to be registered.

1. *Be it enacted, &c.* That no gift hereafter to be made of any slave or slaves, shall be good or available, either in law or equity, unless the same shall be made in writing, signed by the donor, and attested by at least one credible subscribing witness; neither shall such gift be valid, unless the writing by which the title by which any slave or slaves is transferred shall be proven or acknowledged, as conveyances of land, and registered in the office of the public register of the county where the donee resides, within one year after the execution thereof, if the donee be in the actual possession of the

slave or slaves so given and transferred ; but if, under any special agreement made at the time of the gift, the donor shall remain in possession of the slave or slaves so given, then the writing transferring or conveying the same slave or slaves, shall be proven or acknowledged as aforesaid, and registered within the same time, in the county where the donor resides.

2. *And be it further enacted,* That on all trials, where any such writing shall be introduced to support the title of either party, the due and fair execution of such writing shall be proved by a witness subscribing and attesting the execution of such writing ; but if such witness shall be dead or removed out of the state, then the probate or acknowledgment and registration of such writing, may be given in evidence.

On trials the execution of the writing to be proved.

3. *And be it further enacted,* That every person claiming title to any slave or slaves, by virtue of any parole gift heretofore made, shall commence and prosecute his or her suit for the same within three years from the passing of this act, otherwise the same shall be forever barred: *Provided however,* That if any such person or persons be, at the time of passing this act, within the age of twenty-one years, non compos mentis, feme covert, imprisoned, or beyond seas, such person or persons shall, within three years next after full age, coming of sound mind, discoveriture, enlargement out of prison, or return from beyond seas, commence and prosecute his or her suit for any such slave or slaves, claimed by force of such parole gift, and not afterwards. *Provided,* That when any person shall have put into the actual possession of his or her child or children, any slave or slaves, and the said slave or slaves shall remain in the possession of such child or children, at the time of the death of such person, he or she dying intestate, such slave or slaves shall be considered as an advancement to such child or children, and be regulated by the laws now in force relating to advancements made to children by a parent in his life-time.

Claims under parole gift to be made within 3 years.

When slaves are put in possession of children, to be considered as advancements.

4. *And be it further enacted,* That this act shall commence and be in force from and after the first day of April next.

This act to be in force the 1st of April.

CHAP. 702.

An act to ascertain and fix the salary and fees of the governor's private secretary.

Preamble.
(a See 1799,
c. 535, s. 3.)

Whereas the present salary of the governor's private secretary, including his fees as allowed by law, (a) are found to be inadequate to the services by him performed :

Salary and fees.

1. *Be it enacted, &c.* That from and after the passing of this act, the private secretary of the governor shall be allowed the sum of one hundred and fifty pounds, and the following fees, and no others whatever, viz : For a judge's commission, forty shillings; for an attorney-general's ditto, twenty shillings; a solicitor's ditto, twenty shillings; senators in congress ditto, twenty shillings; representatives ditto, twenty shillings; notary public's ditto, twenty shillings; for any commission for a place of profit, twenty shillings; a testimonial, ten shillings; suspension of a grant, seven shillings and six-pence; for affixing the seal to a grant, two shillings and six-pence.

(b 1784, c. 224.)

And whereas an act passed in the year one thousand seven hundred and eighty-four, chapter ninth, (b) directs that the letter books of the governor should be carefully preserved in the offices of the clerks of the General Assembly; which law from experience has been found to be inconvenient : For remedy whereof,

The letter books of the governor to remain with his private secretary.

2. *Be it further enacted,* That the clerks of the General Assembly shall, at the close of each and every session of the Legislature, deliver to the private secretary of the governor the letter book, for the purpose of being deposited in the office of the executive. And further, that the clerks of the General Assembly do deliver to the governor's private secretary, all the letter books of the former governors which are now remaining in their office since the fourth of July, one thousand seven hundred and seventy-six, to be likewise deposited in the executive office. *Provided always,* That it shall be the special duty of the governor for the time being, to have the said books, or any of them, produced before the General Assembly, whenever thereto requested.

Former laws repealed.

3. *And be it further enacted,* That all laws and parts and clauses of laws, heretofore made, that come within the purview of this act, shall be and the same are hereby repealed.

CHAP. 703.

An act to amend the several acts of Assembly now in force giving remedy by petition. (a)

(a See 1787, c. 274; 1762, c. 69.)

1. *Be it enacted, &c.* That in all cases of suits by petition, in which a copy of the petition and a subpœna or capias shall have been served on one of the defendants, and it shall be shewn to the court by affidavit that the other defendant or defendants is or are not inhabitants of this state, or on diligent enquiry cannot be found, the court may make an order directing such defendant or defendants to appear to the said suit, and make his, her or their defence to the same, at the next or some after-term or sessions of the said court, or that the petition will be taken *pro confesso* against him, her or them, and heard accordingly; and if it shall, at the term or session so appointed, be proved to the court that the said order was published five weeks successively in the paper nominated by the court, within fifty days after the said order was made, the court may proceed to the trial of the cause, and to pass judgment, or to decree therein; which judgment or decree shall bind and conclude such defendant or defendants to the same extent, and under the same rules and regulations as defendants are now bound by like proceedings in the courts of equity.

Suits by petition how to be managed.

2. *And be it further enacted,* That when any matter of account shall be involved in a suit by petition, the court may order their clerk to audit and settle the accounts involved in the cause, and to report the balance due thereon, in the same manner and under the same rules and regulations as references are made by the courts of equity to the clerks and masters thereof; and the clerk shall be entitled to the same compensation for such services as the clerks and masters are now allowed by law.

When an account is involved in a suit by petition, the clerk may audit and settle it.

3. *And be it further enacted,* That on affidavit of the petitioner or petitioners, or one of them, stating to the best of his, her or their knowledge and belief, the amount due from the defendant or defendants, the clerks may, under the direction and at the discretion of one of the judges of the superior courts of law or of the court of pleas and quarter sessions where the petition may be filed, issue a capias to hold the defendant or defendants,

Wherein the clerk may issue a capias to hold defendant to bail,

or any of them, to bail, in double the sum so claimed to be due; which bail shall be liable and may discharge themselves in the same manner as bails in suits at common law.

Two justices may take depositions to be read in evidence.

Clerk's fees.

(a See 1793, c. 403.)

4. *And be it further enacted*, That any two justices of the peace may take depositions to be read as evidence in the trial of suits by petition, in the same manner and under the same rules and regulations as depositions are taken to be read on the trial of suits in equity.

5. *And be it further enacted*, That the clerk may take and receive the same fees for the copies and process in suits by petition as the clerks and masters(a) are now entitled to for like services.

CHAP. 704.

An act for the relief of executors and administrators in certain cases.

The provision of the act of 1789, to extend to executors and administrators.

(b See 1789, c. 311.)

Be it enacted, &c. That from and after the passing of this act, the provisions of an act passed at Fayetteville in the year one thousand seven hundred and eighty-nine, entitled "An act directing the mode of proceeding against the real estate of deceased debtors, where the personal estate is insufficient for the payment of the debts,"(b) shall, and the same is hereby declared to extend to executors and administrators generally, under the same rules, regulations and restrictions as are by the said act required, any law, usage or custom to the contrary notwithstanding.

CHAP. 705.

(c See 1804, c. 648; 1808, c. 762.)

An act giving further time(c) for registering grants, proving deeds and mesne conveyances.

Deeds, &c. may be registered within 2 years from the passing of this act.

1. *Be it enacted, &c.* That all grants for lands entered under the present government, all deeds, mesne conveyances of lands, tenements and hereditaments, not already proved and registered, and all powers of attorney under which any lands, tenements and hereditaments have been or may be conveyed, shall and may, within two years after the passing of this act, be admitted to registration, under the same rules and restrictions as heretofore appointed by law: And said grants,

deeds, mesne conveyances of lands, tenements or hereditaments, and all powers of attorney under which any lands, tenements or hereditaments have been or may be conveyed, shall be as good and valid as if they had been registered within the time heretofore allowed, any law, usage or custom to the contrary notwithstanding.

2. And whereas, from the frequent division of the counties within this state, it has happened, that many deeds, grants and mesne conveyances, have been registered in the register's office of other counties than those in which the lands conveyed in such deeds, grants or mesne conveyances are situated, Deeds, &c registered in wrong counties

3. *Be it therefore further enacted*, That whenever any original grants from the late Earl Granville, or from the state of North-Carolina, or any mesne conveyance under such grants, may have been registered in other register's office than those of the counties in which the lands are now situated, it shall be lawful for the grantee or grantees, and those claiming under them, within one year after the passing of this act, to have their deeds, grants and mesne conveyances registered over again in the register's office of the counties where the lands are now situated, on paying the register's fees for the same; and such deeds, grants and mesne conveyances, when so registered, shall be as good and valid to all intents and purposes, as if they had been registered in the first instance in the register's office of the counties where the land is situated. Time given for registering such deeds, &c. in the proper counties.

CHAP. 706.

An act to encourage owners of ferries to build bridges for the convenience of travellers.

Whereas passing rivers and large water courses by bridges instead of ferry-boats, would tend much to dispatch, safety and convenience: For encouraging, therefore, owners of ferries to erect bridges in lieu thereof, Preamble.

Be it enacted, &c. That in all cases where the proprietor of any ferry shall prefer building a good and substantial bridge over any water course, instead of keeping ferry, he shall be at liberty to do so, under the same rights and in the same manner by which the ferry is Proprietors of ferries may build toll-bridges.

Toll not to be higher than ferriage.

claimed and held, and under the same rules, regulations and restrictions of other toll-bridges heretofore established by law: *Provided nevertheless*, that no more toll shall be demanded for passing any bridge erected in consequence of this act than is granted by law for the ferriage, unless by agreement with the county court, who are hereby authorised to grant and advance as far as twenty-five per cent. and not more: *And provided further*, that in all such bridges the proprietor shall erect a draw where any water course is frequently and commonly used by sea vessels or masted boats of considerable burthen.

CHAP. 707.

(a See 1762, c. 69.)

An act to amend an act, entitled "An act for the better care of orphans, and the security and management of their estates.(a)

The superior or county courts to appoint a fit person to take care of the estate of a minor, though his father be living.

The person to enter into bond.

Be it enacted, &c. That the superior or county courts shall and may appoint a fit and proper person to take the care and management of the estates real and personal, rights and credits, of any person under the age of twenty-one years, who shall be seised or possessed of any estate, real or personal, or entitled to any such estate, although the father of such minor may be living. And the person so appointed shall enter into bond with security, as required by the act aforesaid, of guardians of orphans, and shall have the same authority as guardians, and be governed in all respects by the laws now in force concerning guardians and orphans, so far as respects the property and rights of orphans; but shall not have any care of, or authority over the person of such minor, by virtue of such appointment.

CHAP. 708.

(b See 1793, c. 378, 1801, c. 597 and 598, 1807, c. 732, 1808, c. 749, 1812, c. 828, and 835, 1813, c. 850, 1814, c. 867, 1816, c. 924.)

An act to revise the militia laws of this state, relative to the infantry.(b)

1. *Be it enacted, &c.* That all freemen and apprentices, citizens of this state or of the United States, residing in the state, who are or shall be of the age of eighteen years, and under forty-five years, shall, as soon as

it is practicable, be severally and respectively enrolled in the militia of this state, by the captain or commanding officer of the company within the bounds of whose district (to be allotted him by the court martial) such citizen shall reside: And it shall at all times hereafter be the duty of every captain or commanding officer of any company to enrol every such citizen as aforesaid; and also those who shall from time to time arrive at the age of eighteen years, except as hereinafter excepted, or shall come to reside within his bounds and remain therein thirty days; and shall, without delay, notify such citizen of said enrolment by a proper non-commissioned officer of the company, by whom such notice may be proved: That every citizen so enrolled and notified, shall, within six months thereafter, provide himself with a good musket, smooth-bored gun or firelock, or with a good rifle, shot-pouch, and powder-horn; and shall appear so armed, and accoutred, when called out to exercise, or in actual service. That the commissioned officers shall severally be armed with a sword or hanger or an esponton. And every citizen so enrolled and providing himself with arms and accoutrements as aforesaid, shall hold the same exempted and free from all suits, distresses, executions or sales for debt, and for the payment of taxes.

Who are to be enrolled.

How to be provided.

2. *Be it further enacted*, That the Vice-President of the United States, the officers judicial and executive of the United States, the members of both houses of Congress and their respective officers, the judges of the supreme courts of law and courts of equity and justices of the peace, counsellors of state, the secretary, treasurer, comptroller, attorney-general, solicitors, the clerks of the several courts of record, the state printer, high sheriffs of the several counties in this state, physicians and surgeons, ministers of the gospel of every denomination that are properly and regularly ordained and have the cure of souls, quakers, moravians, dunkards or menonists, religiously scrupulous of bearing arms, who may produce a certificate of their being regular members of either of the said societies, all custom-house officers, postmasters and stage-drivers, who are employed in the care and conveyance of the mail to the post-offices of the United States, all continental officers who served with reputation three years, or until the end of the revolutionary war, unless sooner deran-

Persons exempted from militia duty.

ged by a reform of the army, all ferrymen employed on any ferry of any public road, provided the same shall not exceed the superintendent and one other to each ferry, all millers of public mills and inspectors of produce, all branch and licensed pilots, all mariners actually employed in the sea service of any state or merchant of the United States, all officers and students of the University and all other seminaries of learning within this state particularly established by law, shall be, and they are hereby exempted from militia duty: *Provided always*, that nothing herein contained shall be so construed as to exempt any person from performing duty in case of invasion or insurrection within this state.

Forfeitures for not being equipped.

3. *Be it further enacted*, That every person liable to do militia duty, who may by the commissioned officers of his company be deemed in circumstances sufficient to equip himself, and who shall fail to do the same as herein required, shall forfeit and pay for each deficiency, as follows: for the want of a good and serviceable musket, rifle or firelock, the sum of five shillings, a shot pouch and powder horn, the sum of two shillings and six pence. And all parents, masters or guardians shall furnish those of the militia who shall be under their care or command with their arms and equipments above mentioned, under the like penalties for each neglect: *Provided*, that such guardian shall have property sufficient in his hand belonging to his ward to purchase said arms. That all commissioned officers of the same rank shall take precedency or command according to the date of their commission: and where two or more of the same grade bear an equal date then their rank shall be determined by lot, to be drawn by them before the commanding officers of the division, brigade, regiment, battalion, company or detachment. That each superior court district shall form at least one brigade, and each county at least one regiment. That when the same shall be convenient, each regiment shall consist of at least two battalions, each battalion of five companies, and each company of sixty-four privates. That the militia shall be officered as follows, to each division one major-general, and two aids de camps, with the rank and pay of major, to be appointed by the major-general: to each brigade one brigadier-general, and one aid de camp, with the rank and pay of a major,

Officers how to take rank.

Militia how to be divided and officered.

to be appointed by the brigadier-general: to each regiment one lieutenant-colonel commandant and two majors. Which general and field officers shall be appointed by the Senate and House of Commons, and commissioned by the governor for the time being. To each company, one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and one fifer. That there shall be to each regiment one adjutant and one quarter-master, who shall be commissioned officers with the rank of lieutenant, to be appointed by the commanding officer of the regiment. And it shall be the duty of the adjutant in each regiment respectively to perform the duties heretofore assigned to the brigade inspector within their regiment, for which service he shall be allowed by the court-martial a reasonable compensation, if they think proper, to be paid out of the fines collected. There shall be also one paymaster, one surgeon and one surgeon's mate, to be appointed as aforesaid: also one sergeant-major, one drum-major, one fife-major, to each regiment, to be appointed by the commanding officer thereof. The non-commissioned officers, sergeants, corporals, drummers and fifers, shall be appointed by the captains of each company. The commissioned officers below the grade of a field officer, whenever a vacancy happens in the infantry, a recommendation shall be made by the field officers of the regiment, to the governor, who is requested to issue commissions to fill all the said appointments and recommendations. The general and field officers, and all other commissioned officers, shall reside within the division, brigade, regiment, battalion, or company district, which they respectively command. *Provided*, that this arrangement shall not effect any appointment heretofore made.

4. *Be it further enacted*, That any person who may enrol himself in any volunteer company, authorised by the militia laws of this state, shall be considered as belonging to the company to which he was attached before such enrolment, and shall continue to perform the duties of such company until he becomes fully equipped in the usual uniform of such volunteer company in which he is enrolled. That when such person becomes equipped, he shall then, and not until then, be considered as belonging to such volunteer company. That such person so becoming enrolled in any volunteer company, and

Volunteer companies.

considered as attached thereto, as directed by this act, shall not then be permitted to return to the infantry, except by the consent of the field officers of the regiment to which such company may belong; or by removal out of the county, regiment or battalion where such person was enrolled. That it shall be sufficient for such person to be enrolled and approved by the captain of any volunteer company, without the intervention of any other officer whatever.

To be governed by the rules adopted by Congress.

5. *Be it further enacted*, That the rules approved and established by Congress, in their resolution on the 29th day of March, one thousand seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia of this state; except such alterations as may be rendered necessary by the requisitions of this act, or some unavoidable circumstance. It shall be the duty of the commanding officer at every muster, whether by regiment, battalion or company, to cause the militia to be exercised agreeable to the said rules of discipline, at least three hours in each day, at which they may muster.

To be one regimental or battalion muster every year.

6. *Be it further enacted*, That there shall be in every year, at least one regimental or battalion muster, at such place or places as have been, or shall be appointed by law for general musters, to be ordered by the commandant of such regiment or battalion, except when it is otherwise ordered by a general officer, who may order such musters at such time and place in the respective counties as may by him be thought proper and convenient.

Adjutant-general's duties.

7. *Be it further enacted*, That it shall be the duty of the adjutant-general to distribute all orders from the commander in chief of the state to the several corps, to attend public reviews if required, when the commander in chief of the state shall review the militia of any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by law, to furnish blank forms of different returns that may be required, and to explain the principles on which they shall be made. (a) To demand and receive from the several officers of the different corps throughout the state, returns of the militia under their command, reporting the actual situation of their arms, accoutrements and their delinquencies, and every other thing which relates to the advancement of good

(a Altered by 1808, c. 749, s. 2.)

order and discipline. All which the several officers of the divisions, brigades, regiments and battalions, are hereby required to make, in the manner herein directed, that the adjutant-general may be duly furnished therewith previous to the annual meeting of the General Assembly. From all which returns he shall make proper abstracts, and lay the same, with a report of the general state of the militia, magazines and military stores, and such improvements as he may think necessary for the advancement of discipline and benefit of the militia, annually, to the General Assembly, or to the commander in chief of the state, who is requested to lay the same, without delay, before the said Assembly. And the adjutant-general shall also annually make a return of all the militia of this state to the President of the United States. That it shall be the duty of the adjutant-general to give information against, and prosecute in behalf of the state, all majors and brigadiers general who shall fail or neglect to review their respective divisions and brigades, agreeable to the directions of the militia law. And to the end that he may receive information, whether the said duties have been performed, the commanding officer of each regiment, under the penalty of twenty-five pounds for each neglect, is hereby required to forward to the said adjutant-general a duplicate of the annual return made by him to the brigadier, at the bottom of which he shall report whether or not his regiment was reviewed by the major-general or brigadier-general, and at what time. In failure of which recited duties, he shall suffer the following fines and penalties: for not attending all public reviews when required by the Governor or commander in chief of the state, twenty-five pounds for each neglect: for not furnishing blank forms as required by this act, the sum of five pounds for each neglect, to be recovered before any jurisdiction having cognizance thereof, one half to the use of the informer, and the other half to the use of the state. For not distributing all orders from the commander in chief of the state, or for not making returns, informations and prosecutions, as required by this act, upon conviction of either before a general court martial to be ordered by the Governor, he shall be cashiered. That the said adjutant-general shall be compensated for the printing of all the blank forms of returns necessarily prescribed in his department, and the postage of

all letters to and from him in his capacity as adjutant-general, to be paid to him by the Treasurer of this state, on the adjutant-general's producing a stated account of the same, and by him certified. That the adjutant-general shall keep a roster of the names and dates of the commissions of each major and brigadier-general in this state, likewise the counties under each of their command respectively, designating therein the numbers of each division and brigade, ready at all times for immediate inspection. That he shall at least once in every three years transmit a copy of this roster certified by him, to the President of the United States, to the governor of this state, and to the General Assembly. That it shall be the duty of the adjutant-general to bring suits in the name of the governor, in any of the courts of record within this state, against all and every field and general officer who may make default of return of him required by this act. And where any penalty whatever is imposed by law upon any field or general officer for any neglect or breach of duty whatever prescribed by military law, it shall be the duty of the adjutant-general to institute a suit or suits in the name of the Governor, in any court of record within this state, against such officer; and a certificate of the adjutant-general, under his hand and seal, shall be conclusive evidence in any such court of record against such delinquent officer, provided such certificate contains such matter as would be sufficient evidence to convict such officer, if delivered by the rules of law in open court. And the judgment so obtained shall be carried into execution by the sheriff of any county, in the same manner, and under the same rules, regulations, restrictions and penalties, as are prescribed in cases at common and statute law. And he shall from time to time make report to the Legislature of what shall be done by him in virtue of his appointment, and accompany such report with such remarks as may by him be deemed necessary for the better regulation and improvement of the military discipline throughout the state. In consideration of all which services, the said adjutant-general shall be exempted in his capacity of a general officer from the duty of reviewing his division or brigade, as required of other general officers by this act, and from the penalties consequent upon the omission to perform that duty: *Provided nevertheless*, that this exemption

shall not be understood to derogate from his right to attend in either or both capacities of adjutant-general and general in the line, any regimental, battalion or other muster, whenever and as often as he may think proper to do so.

8. *Be it further enacted*, That if any officer shall fail to attend at any review, regimental or battalion muster, or attending, be not armed as required by this act, he or they shall, on conviction before a court-martial, forfeit and pay, if a field officer, the sum of ten pounds; if a commissioned officer under that grade the sum of five pounds. And every non-commissioned officer or private who shall fail to attend such review or muster, shall, on conviction, pay such sum as shall be adjudged against him or them by the commissioned officers of the company to which he belongs, not exceeding two pounds, nor less than ten shillings, to be ascertained and determined at the next company muster, and when collected, to be accounted for with the court-martial; or if appearing, be not armed as by this act directed, shall for such default forfeit and pay a sum not exceeding fifteen shillings, nor less than five shillings, to be adjudged as aforesaid; which fines shall be collected and applied as hereinafter directed; that the company officers in each regiment or battalion of infantry shall incur the same penalty if they fail to attend the muster ground the day preceding each muster for the purposes herein mentioned. Every captain or commanding officer of a company shall, at least once in three months, at such place as he shall think most proper and expedient and agreeably to the order of the commanding officer, muster, train and exercise such company, and shall cause them to remain under arms at least three hours in each and every day, by himself, or his lieutenant or ensign, and then and there teach them the manual exercise and manœuvres directed in the book of discipline; at which muster the officers and privates shall appear armed as before required. If any captain or commanding officer of any company shall fail or neglect to muster his company as herein directed, he shall forfeit and pay the sum of three pounds; and if he, or any commissioned officer of the company, shall fail to appear equipped as directed at the said muster, the officer so failing shall pay the sum of two pounds; and if a non-commissioned officer or private shall fail to attend at a company muster, he

Forfeitures for
not attending
reviews and
musters.

shall forfeit and pay a sum not exceeding twenty shillings, nor less than ten shillings; and if attending without being armed and accoutred, shall pay a sum not exceeding ten shillings, nor less than five shillings; which sum shall be adjudged in manner as hereinafter directed, according to the circumstances of the delinquent. *Provided*, that every absentee shall be allowed until the next succeeding company muster to make his excuse, which shall always, and without exception, be on oath; the officer highest in rank being hereby authorised to administer the same. If any officer shall suffer himself to be intoxicated, or behave in a riotous or disorderly manner when required to be on duty, or disobey the orders of his commanding officer, he shall either be fined and reprimanded by the court-martial, or at their discretion shall be absolutely cashiered.

Punishment for
resisting com-
mands.

9. *Be it further enacted*, That if any non-commissioned officer or private shall, during the time of muster, resist his commanding officer, or refuse to obey his lawful commands, if a non-commissioned officer, he shall be kept under guard during such muster, reduced to the ranks, and fined at the discretion of the court-martial, not exceeding three pounds; and if a private, shall be confined and kept under guard during such muster, and fined at the discretion of the court-martial, not exceeding twenty shillings. And if the court-martial, after examination on oath, shall adjudge any person or persons enrolled to be incapable of providing him or themselves with arms and accoutrements required by this act, they shall make report thereof to the next regimental or battalion court-martial, as the case may be; who may, if it shall appear necessary, exempt such persons from the fines or forfeitures by this act imposed, until such arms and accoutrements shall be provided and delivered to him or them by the court-martial; who shall take security for the safe-keeping of such arms and accoutrements to be returned when required.

Returns to be
made.

10. *Be it further enacted*, That the several captains of infantry shall, at their several musters, make a return of their respective companies to the commanding officer of the regiment or battalion within thirty days after the same is required; or immediately, if required at a regimental or battalion muster, under the penalty of five pounds in the first case; or disobedience of orders in the second case. That every officer command-

ing a regiment shall, at least once in every year, on or before the 25th day of October, make a return to the brigadier-general, to which such commandant of regiment belongs, under the penalty of twenty-five pounds. That the brigadier-general of each brigade shall make a return of his brigade to the major-general of the division, on or before the 10th day of November, in each and every year, under the penalty of fifty pounds. That the major-general of each division shall make a return of his division to the adjutant-general of this state on or before the annual meeting of the General Assembly, under a penalty of fifty pounds.

11. *Be it further enacted*, That when any major-general shall be charged with mal-practice or neglect of duty, the governor for the time being shall order him to be arrested and furnished with a copy of his charge, and shall order a general court-martial for his trial, to be composed of one major-general, two brigadier-generals, and ten field officers, six of whom shall be of a different division. For the like charge against a brigadier-general, any major-general or the adjutant-general shall order him to be arrested and furnished with a copy of his charge, and shall order a court-martial for his trial, to be composed of a brigadier-general and twelve field officers, six of whom shall be of a different brigade. In like manner, the commanding officer of each brigade, or the adjutant-general, shall arrest the field officers under his command, and appoint court-martials for the trials of those against whom charges may be exhibited. Which courts shall be composed of thirteen officers, to be taken from the brigade in which such officer arrested belongs, none of whom shall be under the rank of captain, and a field-officer shall preside. The commanding officer of each regiment or battalion shall order a court-martial to be held at the place appointed for the musters of the same, on the day after the regimental or battalion muster, or on the same day if convenient; which court shall consist of a majority of the officers of the regiment or battalion, one of whom shall be a field officer, and two of the grade of captain, and the highest officer in rank present shall be president. The court shall be notified to their duty by the adjutant of the regiment or battalion, by a roster to be by him kept: And the said court when convened, shall appoint a judge advocate, who shall himself, in

How courts-martial shall be formed and conducted.

the presence of the said court, take the following oath :
 " I A. B. do swear, that I will well and truly perform the duties of judge advocate of this court, according to the best of my skill and ability. So help me God." And the judge advocate shall administer the following oath to the members of the court-martial : " I A. B. do swear, that I will hear and determine all causes which may come before this court, and that I will faithfully report all delinquents that come within my knowledge. That I will account for all fines and forfeitures by me collected or received, and in all cases enforce a due execution of the militia laws of this state, to the best of my knowledge and ability. So help me God." That they shall enquire into the age and ability of all persons that come before them by appeal, and exempt such as may be judged incapable of service ; also try and decide on all persons charged with omission or commission, as well by officers as by privates. The said regimental or battalion court-martial shall hear and determine all appeals from the company courts-martial, and to order and dispose of all fines for buying drums, fises and other implements of war for the use of the company from whence the same shall arise, and for supplying the militia with arms and accoutrements and other purposes, that will promote the good thereof.

The judge advocate shall be allowed a reasonable salary, to be paid out of the fines, for his services. His duty shall be to write at length the proceedings of the said court. For all fines which may be imposed by the court-martial, he is hereby authorised and required to enter up judgment and issue execution, which if against commissioned officers, shall be directed to the adjutant or constable ; if against non-commissioned officers or privates, shall be directed to a sergeant of the company, or constable of the county to which the delinquent belongs. The adjutant, sergeant or constable shall proceed to distress and sell, in the same manner, and under the same rules as are established by law for the government of constables in their duty in civil cases, and shall be allowed the same fees for their services. That the adjutant, sergeant or constable shall in all cases make due returns to the next succeeding court-martial ; and in case of failure of such adjutant, sergeant or constable to do the several duties as required of them by this act, in collecting and accounting for all fines, such adju-

Judge advocate
 to be allowed a
 reasonable sala-
 ry.

His duty.

tant, sergeant or constable, as the case may be, shall incur a penalty or fine of double the amount that such adjutant, sergeant or constable was so bound to collect and account for.

12. *Be it further enacted*, That the commissioned officers of the company, or any two of them, after each and every muster of the company, shall on the same day meet in court-martial, and proceed to try and determine on all cases which may come before them; and on the conviction of any delinquents, the officer highest in rank present shall enter up judgment and issue execution, directed to the sergeant or constable of that district, at his own discretion; which sergeant or constable, as the case may be, shall proceed as before directed, and shall make his return to the next company court-martial. That it shall be the duty of the pay-master to demand and receive of the adjutants, sergeants or constables, and others who may have collected fines and forfeitures, and distribute the same, agreeably to the directions of the court-martial, and settle his accounts annually with the judge advocate. And the pay-masters respectively shall, before they enter on the duties of their office, give bond and sufficient security, in the sum of one hundred pounds, payable to the commanding officer of the regiment and his successors in office, for the faithful accounting for, agreeable to law, of all sums of money which may come into his hands by virtue of his appointment: And it shall be the duty of the commanding officer aforesaid, under the penalty of one hundred pounds, to sue for and recover the same; and when the same is so received by him, apply it as is already by law directed. And the several pay-masters shall be allowed a reasonable compensation for their services by the court-martial. In case there shall be no pay-master appointed by the commandant of any regiment, then and in that case each commandant shall perform and execute the duties of pay-master as above required.

Officers to meet
in courts-mar-
tial.

(Altered by
1817, c. 955.)

Duty of the
paymaster.

13. *Be it further enacted*, That every officer at the first meeting of the court-martial, after being commissioned, shall take and subscribe the following oath, to be administered in open court-martial by the judge advocate: "I A. B. do solemnly swear, that I will execute the office of _____, according to the rules of military discipline, and the laws of this state, to the

Officers to take
an oath.

best of my knowledge and ability ; and that I will support the constitution of the United States, and of this state ; so help me God." And also the following oath : " I A. B. do swear, that I will, at the court-martial of the company to which I belong, duly administer justice, and apply fines and penalties according to law, and to the best of my ability, without favour, affection or partiality ; so help me God." That no officer shall be entitled to sit in a regimental, battalion or company court-martial, unless he shall have taken and subscribed the oaths aforesaid.

Proclamation to
be made of de-
linquents.

14. *Be it further enacted*, That if at any regimental, battalion or company courts martial, or company of the officers, there shall be any delinquents, either for non-attendance or not being properly armed and accoutred, or for disorderly conduct, proclamation shall be made by the captain or commanding officer, calling the names of all delinquents enrolled, that they attend the trial at the following company court-martial, which shall be deemed a legal notice. If field officers, or officers of the regimental staff, such notice shall be given by the commanding officer or adjutant of the regiment or battalion, or to the officers assembled ; and if any officer or private has an excuse to offer to the court-martial, he may send his affidavit, taken before a civil magistrate, or produce a witness, or he may personally appear and make oath to the cause of his delinquency ; and in all cases, whether for neglect or failure of the officers and privates of regimental or battalion musters, or appeals from the company courts-martial, and all other cases of which the regimental courts-martial have jurisdiction, their determination shall be final.

Appeals.

15. *Be it further enacted*, That the right of appeal shall be reserved from a company to a regimental court-martial, and that the several courts-martial shall in future have power and legal authority to adjourn from day to day, or to any future day, when it shall be the duty of the officers entitled to compose the same to attend, under the usual penalties by law established by this act in other like cases for non-attendance, and at which time the unfinished business of the court may be acted on : That if there should not meet a sufficient number at the place of adjournment, to form a quorum, that the officer ordering the same shall have power to continue its adjournments. That when any original

court-martial shall be ordered and a sufficient number of officers do not attend to form the same, the business of the said court shall stand adjourned until the next court-martial in course.

16. *Be it further enacted,* That every commissioned officer of the infantry, by appointment of the commanding officer of each regiment, shall meet the day before that on which the commanding officer of such regiment or battalion appointed for the holding reviews or regimental musters in their respective counties; where the said commissioned officers of infantry shall be exercised by the adjutant, or by the commanding officer of such regiment or battalion, at least three hours in each day, when and where they shall be instructed in all matters of field exercise and discipline, according to the system which now is or may hereafter be established by the Congress of the United States and of this state. And any commissioned officer who shall fail or neglect to appear at the time and place so appointed by the commandant of his regiment or battalion as required by this section, or if appearing, be not armed and equipped as by this act directed, when at any review or parade, such commissioned officer so failing and neglecting, shall forfeit and pay the same sum which such commissioned officer would be compelled to pay in cases of failure and neglect, at any regimental or battalion reviews or parades, and shall be recovered in the same manner, and the monies applied as in other like cases directed by this act. And such commissioned officer shall in every instance whatever be subject to the same punishment for neglect of duty, or disobedience of his superior officers, as such commissioned officer would be subject to when in actual military service.

Officers to be exercised by the adjutant.

17. *Be it further enacted,* That the general officers shall immediately after their appointment to office, notify the governor for the time being, of their acceptance or non-acceptance of such appointment. That if any major-general or brigadier-general shall think proper to resign his commission, he shall first notify the governor for the time being, and other officers to whom it may be his duty to make returns, of such his resignation; also of the name of the next officer in command, and the governor and such other officers to whom returns from such resigning officer is or may be due, shall thereon require the necessary returns and reports

General officers.

of the next officer in command of the division or brigade, until the vacancy occasioned by such resignation be filled; *Provided*, that such resignation doth actually take place three months previous to the meeting of the General Assembly, and if not, the officer so resigning shall be accountable for all returns due from his division or brigade for that year.

Absence of commanding officers to be notified.

18. *Be it further enacted*, That when any officer commanding a division, brigade or regiment, shall have occasion to be absent from his usual residence two months or more, it shall be the duty of such officer to notify the officer entitled to the command of such his intended absence, and also the next superior officer in command, under the penalty of twenty-five pounds if a general officer, and ten pounds if any other field officer, to be recovered and applied as other fines.

Money and papers to be delivered to successors.

19. *Be it further enacted*, That all officers who have in their hands either money or papers, received by virtue of their appointments, shall, when they leave their office, pay and deliver the same to their successor in office under the penalty of fifty pounds, to be recovered in the name of the governor and applied in like manner as other fines.

Penalties for failing to appear when called on duty.

20. *Be it further enacted*, That every officer who shall neglect or refuse on call or alarm given, to appear at such times and places as shall be appointed by his commanding officer, he shall, on conviction before a court-martial, be cashiered and rendered incapable of ever after holding a military appointment under the authority of this state, and be further liable to pay the sum of twenty pounds, to be collected as herein directed; and if a non-commissioned officer or private, he shall forfeit and pay the sum of five pounds. If any person do not march against the enemy when commanded, by himself or substitute, or refuse or neglect to do his duty, or perform the services he is requested to perform by his officer, or quit his post, desert or mutiny, it shall and may be lawful for the commanding officer of the regiment or corps, to order a court-martial for the trial of such offenders. The members when met, shall individually, before they proceed take the following oath: "I swear well and truly to try and determine, according to the evidence of the matter before me, between this state and the person now to be tried, so help me God." And shall, on trial and conviction, order pun-

ishment on the offender according to the articles of war, established for the regulation of the army: *Provided*, such punishment shall not extend to sentence of death, except in cases of desertion to an enemy, or mutiny.

21. *Be it further enacted*, That no officer or soldier directed by this act to appear and muster as aforesaid, shall be liable to be taken or arrested in any civil action or process whatever, on the day such person or persons is or are directed to appear, or in a reasonable time either in going to, continuing at, or returning from the place appointed to muster or appear, but every such arrest is hereby declared to be void. Every person required by this act to attend musters and reviews, going to or returning from the same, shall be suffered to pass over any toll-bridge or toll-causeway, and shall be put over any ferry without delay, free from any charge whatever. If any ferryman or proprietor of any toll-bridge shall demand pay, or refuse to put over such person, they shall forfeit and pay for every such offence forty shillings, to be recovered by warrant from any justice of the peace, to the sole use of the informer.

Officers and soldiers on duty, not liable to arrest on civil actions.

22. *Be it further enacted*, That the major-general of each division shall, when convenient to himself, but at least once in every four years, from the time of his last review, and once in every four years thereafter, order a review of the several corps composing said division, to meet by regiments in their respective counties, and he shall attend the said reviews under the penalty of one hundred pounds. The brigadier-general of each brigade shall in like manner, at least once in every three years, order a review of the several regiments or battalions under his command, under a penalty of fifty pounds; and such brigadier-general shall cause to be given to the commanding officers of regiments and corps under their command, at least thirty^(a) days previous notice of such reviews or general musters. And the brigadier-general shall make a duplicate return annually to the adjutant-general, at the bottom of which it shall be their special duty respectively to state when his brigade was last reviewed by the major-general commanding his division.

Generals to order reviews.

(a) Altered to 50 days—see 1817, c. 943, s. 1.)

23. *Be it further enacted*, That all fines or forfeitures by this act directed and not herein particularly appropriated, shall be applied to the purpose of buying drums, fifes, colours, arms and accoutrements for the use of the

Fines how applied.

corps from whence the same did arise; those paid by the major-general shall be equally divided among the brigades of his division; those paid by the brigadier-general shall be equally divided among the regiments of his brigade; those paid by the field and staff officers and not before appropriated equally among the companies of the regiments or battalions to which they respectively belong; and those paid by the other commissioned officers, among their respective companies.

Persons in towns to pay double fines.

24. *Be it further enacted*, That when companies consist principally of persons residing within any town of this state, and the muster ground is at or within one mile of said town, that all fines herein imposed for not appearing at reviews or musters, or if appearing, not being properly armed and accoutred, shall be double.

Persons on muster ground not on duty, may be arrested.

25. *Be it further enacted*, That if any person liable to do duty shall appear at or near the parade or muster ground during the time of any review or muster, and shall not take his proper station and perform the duty required of him by law, or behave himself in a disorderly manner while on the parade, it shall be the duty of the commanding officer of the regiment or corps to order the said person under guard, there to be detained during the time of exercise, or the service then performing, and until the militia are discharged, and such person shall further be fined at the discretion of the court-martial.

Former acts repealed.

26. *And be it further enacted*, That all acts and clauses of acts which come within the meaning and purview of this act, are hereby declared to be repealed and made void; any thing to the contrary notwithstanding.

CHAP. 709.

An act to revise the militia laws of this state relative to the cavalry.

One regiment of cavalry in each brigade.

1. *Be it enacted, &c.* That from and after the passing of this act, there shall be in each brigade of militia in this state, one regiment of cavalry; that there shall be to each regiment of cavalry, one lieutenant-colonel commandant and two majors, to be appointed, in case of vacancy, by joint ballot of both houses of the General Assembly and commissioned by the governor for the time being. And that out of the militia enrolled

in this state, there may be formed out of each battalion that have a separate muster, at least one troop of cavalry, to be formed of volunteers, and shall be uniformly clothed in regimentals at their own expense; the colour and fashion to be determined by the field officers of cavalry of the regiment or battalion to which they belong; to each troop one captain, two lieutenants, The officers one cornet, four sergeants, four corporals, one saddler, one farrier, one trumpeter, and not less than thirty-two dragoons. The commissioned officers to furnish themselves with good horses, at least fourteen and one-half hands high; to be armed with a sword and pair of pistols, the holsters of which shall be covered with bear-skin: and each dragoon shall furnish himself with a serviceable horse, at least fourteen and a half hands high, a good saddle, bridle, breast-plate, crupper and valise, a pair of boots and spurs, one pair of pistols and holsters, the holsters to be covered with bear-skin, a sword and cartouch-box, to hold twelve cartridges for pistols. And that the field officers and commissioned officers shall reside within the brigade, regimental or troop district in which they respectively command.

2. *Be it further enacted*, That no person who now is, or shall hereafter procure himself to be enrolled in any troop of cavalry, shall be permitted to return to the infantry, except as provided by the fourth section of an act passed in the present session relative to the infantry. Persons enrolled not to return to the infantry. And it shall be sufficient for any person to be enrolled and approved by the captain of any troop of cavalry, without the intervention of any other officer whatever. *Provided always*, that each person enrolling himself shall have six months from the time of each enrolment to equip himself, and shall thereafter be subject to do duty in the cavalry only.

3. *Be it further enacted*, That the commanding officer of each and every regiment of cavalry, shall muster Musters. their regiments at the places where the late superior courts of the district to which said regiment belongs, were held; except the cavalry of the counties of Buncombe, Anson and Richmond, which shall be mustered and reviewed at the places heretofore fixed on for that purpose in their respective counties, and except also such districts as have two regiments of cavalry, in which case it shall be at such places as the commanding officer shall direct at least once in every two years,

under the penalty of fifty pounds; and such commanding officer shall once in each and every year, on or before the first day of October, make a just and full return after the form to be prescribed by the adjutant-general of the state, of all officers and dragoons under his command, to the major-general, in whose division such commanding officer of the regiment of cavalry belongs respectively, under a penalty of fifty pounds.

Who shall command.

4. *Be it further enacted*, That the troops of cavalry respectively, when attending the general muster or the regiment or battalion of infantry, shall be under the command of any field officer of cavalry, if present on parade, except on review days when ordered by the major-general, adjutant-general or brigadier-general, and at the reviewing of the regiment of cavalry when ordered by the colonel thereof, the cavalry shall be under the command of the officers of cavalry only, except a general officer shall be present on the parade. That it shall be the duty of each colonel of cavalry in this state to review, or cause one of his majors to review, once in every year, each troop of cavalry under his command, within the counties respectively where such troop may reside, under a penalty of ten pounds, to be paid by the officer neglecting his duty. That each and every troop of cavalry shall muster, at least once in every three months, at such time and place as the captain or commanding officer of such troop shall direct.

Reviews.

Courts-martial.

That the commissioned officers of each troop, or any two of them, shall be and they are hereby authorised and required to hold courts-martial on the day or succeeding day of any company musters, in order to enforce the militia laws of this state, so far as respects the cavalry department, and shall proceed to try and determine all cases which may come before them, subject, nevertheless, to an appeal to the regimental court-martial; and on the conviction of any delinquent, the officer highest in rank present shall enter up judgment and award process of execution directed to a sergeant of said troop, or constable of such county in which such troop may reside at the discretion of such commanding officer; and the sergeant or constable, as the case may be, shall immediately proceed in the same manner, or cause to be made the sum required, in the same manner, and under the same rules, regulations and restrictions as constables by law are required to

do, and shall make a true return of such proceedings as may be thereon had, to the succeeding court-martial of said troop: and the officer executing such process shall receive the same fees as are by law established for constables in like cases. *Provided*, that every absentee shall be allowed until the next muster of his troop to make his excuse, which shall always and without exception be on oath; the officer highest in rank present shall administer the oath to such absentee.

5. *Be it further enacted*, That if any officer shall suffer himself to be intoxicated, or behave in a riotous or disorderly manner, when required to be on duty, or disobey the orders of his commanding officer, he shall for the first offence be openly reprimanded by the president of the court-martial before whom he is convicted, and fined at the discretion of said court, not exceeding two pounds, and for the second offence shall be absolutely cashiered. That if any non-commissioned officer or private shall, during the time of muster, resist his commanding officer, or refuse to obey his lawful commands; if a non-commissioned officer, he shall be confined and kept under guard during such muster, reduced to the ranks, and fined at the discretion of the court-martial before whom he is tried, not exceeding one pound; if a private, shall be confined and kept under guard during such muster, and fined at the discretion of the court-martial, not exceeding ten shillings. And if any person liable to do duty shall be at or near the parade or muster ground, during the time of any review or muster, and shall not take his proper station, and perform the duties required of him by law, it shall be the duty of the commanding officer of the regiment or troop to order him under guard, there to be detained during the time of such exercise, and until the troop or regiment are discharged.

Penalty for intoxication, &c.

6. *Be it further enacted*, That the commanding officer of each regiment of cavalry shall order a regimental court-martial to be held at the place appointed for mustering the same, which court-martial shall consist of at least a majority of the commissioned officers of the regiment, or more if the commanding officer shall direct, one of whom shall be a field-officer, and two at least of the grade of a captain, and the officer highest in rank present shall preside at the court. Which court shall be warned to that duty by the adjutant of

Regimental court-martial.

Judgeadvocate.

the regiment by a roster to be by him kept. The said court, when convened, shall appoint a judge advocate, who shall himself, in the presence of the said court, take the following oath: "I A. B. do swear that I will well and truly perform the duties of judge advocate of this court according to the best of my skill and abilities. So help me God." And the judge advocate shall administer the following oath to the members of said court: "I A. B. do swear that I will hear and determine all causes which may come before this court; that I will faithfully report all delinquents that come within my knowledge; that I will account for all fines and forfeitures by me collected or received, and in all cases whatever, enforce a due execution of the militia laws of this state, so far as respects the cavalry, to the best of my knowledge and ability. So help me God." The said court shall enquire into the age and ability of all persons that may come before them by appeal or otherwise, and exempt such as may be deemed incapable of service; also try and decide on all persons charged with commission or omission, and at the said regimental courts-martial shall hear and determine all appeals from the company courts-martial, and to order and dispose of all fines and forfeitures as to them may seem right and agreeable to law. The judge advocate shall be allowed a reasonable salary for his services, to be paid out of the fines, and his duty shall be to write at length the proceedings of said court, and for all fines which may be imposed by the court-martial, he is hereby authorised and required to enter up judgment and issue execution, which, if against a commissioned officer, shall be directed to the adjutant or sheriff of the county; if against a non-commissioned officer or private, shall be directed to a sergeant of the company to which the delinquent belongs, or to a constable of the county in which the delinquent resides, at the option of the judge advocate. That the said adjutant or sergeant shall take and subscribe the following oath: "I, A. B. do solemnly and sincerely swear, that I will use my best endeavours to collect all fines and forfeitures, agreeable to the precepts to me delivered, and duly account for the same according to law, to the best of my knowledge and abilities. So help me God." That the adjutant, sheriff, sergeant or constable, shall proceed to distress and sell, in the same manner, and

receive the same fees, as constables by law are entitled to receive in civil cases. That the adjutant, sheriff, sergeant or constable, as the case may be, shall, in all cases, make due return to the next succeeding court-martial. And in case of failure to collect and account for all fines and forfeitures, shall incur a penalty of double the sum by them to be collected; and on proof of such failure, the regimental court-martial may enter up judgment therefor, and award process of execution by the judge-advocate as aforesaid, directed to any officer of the regiment whom the court may think proper.

7. *Be it further enacted*, That there shall be to each regiment of cavalry, one adjutant, one quarter-master, one pay-master, one surgeon and one surgeon's mate, each of the rank of lieutenant, to be appointed by the commanding officer of each regiment. Officers to each regiment.

8. *Be it further enacted*, That the pay-master of every regiment of cavalry, shall give bond with sufficient security, in the sum of one hundred pounds, for the faithful performance of his duty, payable to the commanding officer of the regiment, and his successors in office. And it shall be the duty of the pay-master to demand and receive of the adjutants, sheriffs, sergeants and other officers, who may have collected fines and forfeitures, and to distribute the same agreeable to the directions of the court-martial, and settle his accounts annually with the judge advocate. For which services the pay-master shall be allowed a reasonable compensation by the court-martial; and for the want of a pay-master, the duties herein required of that officer, shall be performed by the commanding officer of the regiment. Pay-masters' duties.

9. *Be it further enacted*, That it shall be the duty of the adjutant of the regiment to attend the regimental parade, and receive and execute such orders as the commanding officer may deem expedient; and the said adjutant shall take an oath of office, in open court-martial, and from time to time call upon, and bring suit against all delinquent captains and other commissioned officers below the grade of captain, for fines and penalties by them incurred, and which are not otherwise specially provided for in this act, and to receive and account for the same annually with the pay-master of the regiment; for which services the adjutant shall be allowed a reasonable compensation to be paid out of the Duty of the adjutant.

fines so collected by order of the court-martial. And in case any adjutant shall fail to attend and perform his duty as required by this act, he shall forfeit and pay the sum of fifty pounds.

Officers to take an oath.

10. *And be it further enacted*, That every commissioned officer of cavalry, at the first meeting of the court-martial after being commissioned, shall take and subscribe the following oath, to be administered to him in open court-martial by the judge advocate, or before any justice of the peace of the county in which such officer may reside: "I, A. B. do solemnly swear, that I will execute the office of _____, according to the rules of military discipline and the laws of this state, to the best of my ability, and that I will support the constitution of the United States, and of this state, and that I will at the court-martial of the company to which I belong, duly administer justice, apply fines and penalties according to law, and to the best of my ability, without favor, affection or partiality. So help me God." And that no officer shall be entitled to sit in any court-martial whatever, unless he shall have taken and subscribed the oaths aforesaid.

Reference to the 18th sect. of the infantry act.

11. *Be it further enacted*, That the seventeenth section of an act, entitled "An act to revise the militia laws of this state, relative to the infantry," passed at the present session of the General Assembly, shall be and the same is hereby declared to be in force upon each and every commanding officer of any regiment of cavalry. That the seventh, twentieth and twenty-first sections of the above mentioned act are hereby declared to be in full force and virtue in the cavalry department, in the same manner as if they were severally inserted in this act.

Officers how appointed.

12. *Be it further enacted*, That the commissioned officers of troops of cavalry shall be recommended by the field officers of the regiment to which they belong, and commissioned by the governor for the time being. That all non-commissioned officers of each troop, shall be appointed by the captain of such troop. That all commissioned officers shall take rank according to the date of their commissions, and where two or more of equal grade bear the same date, then their rank shall be determined by lot, to be drawn by them before the commanding officer of the regiment to which they respectively belong.

13. *Be it further enacted*, That if any field officer of cavalry shall fail to attend at any regimental muster of cavalry, or if attending, be not properly equipped as required by this act, he shall forfeit and pay the sum of ten pounds. If a captain, he shall forfeit and pay the sum of five pounds; and each commissioned officer under that grade, the sum of three pounds: if a non-commissioned officer or dragoon, the sum of two pounds. And for any failure to attend at any company muster, or if attending, be not properly equipped as required by this act, the officers and dragoons shall forfeit and pay one-half of the above sums, to be recovered as other fines imposed by this act.

Forfeitures for field officers failing to attend musters, &c.

14. *Be it further enacted*, That every captain of cavalry who shall fail or neglect to muster his troops by himself or lieutenant as herein directed, and to exercise and manœuvre them agreeable to the system of military discipline which has been, or may be hereafter established, shall forfeit and pay for each and every neglect the sum of five pounds. That it shall be the duty of each and every captain of cavalry to make a true return of their troops respectively, to the commanding officer of the regiment to which he may belong, on or before the first day of September in each and every year, under the penalty of fifteen pounds for each neglect.

Forfeitures for captains.

15. *Be it further enacted*, That if at any court-martial or muster of cavalry, there shall be any delinquents, either for non-attendance or not being properly armed and equipped, or for disorderly conduct, proclamation shall be made by order of the captain or commanding officer, calling the names of all delinquents enrolled, that they attend the trial at the following court-martial, which shall be deemed a legal notice: if field officers or officers of the regimental staff, such notice shall be given by the commanding officer or adjutant of the regiment: if any officer or dragoon shall have an excuse to offer to the court-martial, he may send his affidavit, taken before a justice of the peace, or produce a witness, or he may personally appear and make oath to the cause of his delinquency, and in all cases, whether for neglect or failure of the officers or dragoons, or appeals from the troop courts-martial, the decision of the regimental court-martial shall be final.

Proclamation to be made of delinquents.

Delinquents to be heard in the county where they reside.

16. *Be it further enacted*, That the delinquents of each troop of cavalry which may hereafter happen at any regimental parade, shall be heard and either fined or excused within the county where they respectively reside, before a court-martial, which shall be ordered for that purpose, by the commanding officer of the regiment within six months from such parade or review, in manner following, to wit: to be composed of the commissioned officers of each troop respectively or a majority of them. The said court shall have power to appoint their necessary officers, and proceed in the same manner as regimental courts-martial, and make due return of their proceeding to the next ensuing regimental courts-martial, together with all monies by them caused to be made, to be disposed of as herein directed, any law to the contrary notwithstanding.

Fines how to be appropriated.

17. *Be it further enacted*, That all fines and forfeitures by this act incurred, and not herein particularly appropriated, shall be applied to the purposes of first buying trumpets, and then at the disposal of the regimental court-martial, to the use and benefit of the troop from whence the same arose. Those fines paid by the field and staff officers and not particularly appropriated, shall be equally divided among the troops composing the regiment to which they respectively belong. All other fines and forfeitures arising by virtue of this act, shall be appropriated and divided at the discretion of the regimental court-martial for the promotion and advancement of the military discipline.

Money and papers to be delivered to successors.

18. *Be it further enacted*, That all officers of cavalry going out of office, who may have in their hands any papers or monies relative to, or by virtue of their appointment, shall be bound, under the penalty of one hundred pounds, to deliver the same over to their successors in office, to be sued for and recovered by such successor in the name of the governor before any jurisdiction having cognizance thereof, to be applied to the use of the regiment after deducting the necessary costs and charges.

Penalty on field officers, how recovered.

19. *Be it further enacted*, That when any penalty whatever is imposed by this act upon any field officer of cavalry, for any neglect or breach of duty whatever, and no remedy is prescribed how the same shall be sued for and recovered, then and in that case it shall be the duty of the adjutant-general of this state to commence

suit for the same in the name of the governor, before any jurisdiction having cognizance thereof; and a certificate of the adjutant-general under his hand and seal, shall be conclusive evidence against such delinquent officer: *Provided*, that such certificate contains such matter as would be sufficient to convict such officer if delivered by the rules of law in any court of record. And the judgment so obtained shall be carried into execution by the sheriff or constable of any county as the case may be, in the same manner, and under the same rules, regulations, restrictions and penalties, as are prescribed in cases at common and statute law.

20. *Be it further enacted*, That the officers, non-commissioned officers and dragoons hereinafter mentioned, when in actual service in defence of this state, shall from the day they may be ordered on duty, be paid according to the following rates: a lieutenant-colonel commandant of cavalry, twenty shillings and six rations per day or an equivalent in money, and when forage shall not be furnished, the farther sum of six shillings per day; a major of cavalry, fifteen shillings and four rations per day or an equivalent in money, and six shillings per day for forage when not furnished as aforesaid; a captain of cavalry twelve shillings and six pence and three rations per day or an equivalent in money, and six shillings per day for forage when not furnished as aforesaid; a lieutenant of cavalry, ten shillings and two rations per day or an equivalent in money, and five shillings per day for forage when not furnished as aforesaid; a cornet, seven shillings and six pence, and two rations per day or an equivalent in money, and five shillings per day for forage when not furnished as aforesaid; a surgeon, ten shillings and two rations per day or an equivalent in money, and five shillings per day for forage when not furnished as aforesaid; a surgeon's mate, seven shillings and six pence and two rations per day or an equivalent in money, and five shillings per day for forage when not furnished as aforesaid; a sergeant of cavalry, six shillings per day and five shillings per day for forage when not furnished as aforesaid; a corporal of cavalry, five shillings per day, and five shillings per day for forage when not furnished as aforesaid; an adjutant of cavalry, the same pay as that of a lieutenant; a quartermaster and paymaster of cavalry, the same pay each as that of

Pay when in
service.

a lieutenant; a saddler, a farrier, a boot-maker and trumpeter, each five shillings per day, and four shillings for forage per day when not furnished as aforesaid; a dragoon, four shillings per day, and four shillings for forage per day when not furnished as aforesaid: *Provided*, that the above mentioned pay shall not be construed to be due to any officer or dragoon called out at any time in pursuance of orders from the executive of the United States, or the laws thereof.

21. *And be it further enacted*, That all acts and clauses of acts which come within the meaning and purview of this act, be, and the same are hereby declared to be repealed and made void, any thing to the contrary notwithstanding.

CHAP. 710.

An act to revise the militia laws of this state, relative to the artillery companies of light infantry, grenadiers and riflemen.

One company of
grenadiers, &c.
for each regi-
ment.

1. *Be it enacted, &c.* That out of the militia enrolled in this state, there may be formed for each regiment, one company of grenadiers, light infantry or riflemen, and to each division at least one company of artillery; which companies shall be formed of volunteers from the regiment or brigade, and shall be uniformly clothed in regimentals, to be furnished at their own expense, the colour and fashion to be determined by the brigadier-general commanding the brigade to which they belong; the field officers of artillery to furnish themselves with good horses at least fifteen hands high, and they, as well as the commissioned officers of artillery, light infantry, grenadiers and riflemen, to arm themselves with swords.

Formation of
companies.

2. *Be it further enacted*, That to each company of artillery there shall be one captain, two lieutenants, one cadet, four sergeants, four corporals, six gunners, six bombardiers, one drummer, one fifer, and fifty-two matrosses: that each matross shall furnish himself with all the equipments of a private in the infantry, until proper ordnance and field artillery shall be provided. That to each company of light infantry, grenadiers and riflemen there shall be one captain, two lieutenants, one

cadet, four sergeants, four corporals, one drummer, one fifer and sixty-four privates.

3. *Be it further enacted*, That the field officers of artillery shall, whenever a vacancy occurs, be appointed by joint ballot of both houses of the General Assembly; that the commissioned officers of artillery shall be recommended by the field officers of artillery to the governor, who is authorised to appoint and commission them: that the non-commissioned officers of artillery shall be appointed by the captain of the company to which they respectively belong. That the commissioned officers of light infantry, grenadiers and riflemen shall be recommended by the brigadier-general commanding the brigade to which they may be attached, to the governor, who is authorised to appoint and commission them. That the non-commissioned officers of light infantry, grenadiers and riflemen shall be appointed by the captain of the company respectively, to which such non-commissioned officers belong.

Officers how appointed.

4. *Be it further enacted*, That the captain or commanding officer of each company of artillery, light infantry, grenadiers or riflemen, shall once in three months muster their men at such time as such captain may direct, and at such place as may be agreed on by a majority of the company: if any commissioned officer of artillery, light infantry, grenadiers or riflemen shall fail to appear, or if appearing and be not equipped in manner as shall be directed by the laws and regulations adopted by such company, he shall forfeit and pay the sum of five pounds; if a non-commissioned officer or private, two pounds, to be sued for and recovered in the same manner as prescribed in the act of this General Assembly passed relative to the infantry. That the commanding officer of the regiment of artillery shall, under the penalty of fifty pounds, once in every year transmit a return of his regiment to the adjutant-general of the state, on or before the first day of the sitting of the General Assembly.

Musters.

5. *Be it further enacted*, That the companies of artillery, when attending the general musters of the regiment or battalion of infantry in the county in which they reside, shall be under the command of the commanding officer of the battalion or regiment, except when a field officer of the artillery be then present on the parade. That the officers of the light infantry,

Who shall command.

grenadiers and riflemen shall be commanded by the field officers of the regiment of infantry in which they reside. That the companies of artillery, light infantry, grenadiers or riflemen shall hold company courts-martial, hear and determine all cases arising within their companies, award execution, and to distribute and appropriate the monies arising from all fines or forfeitures, in the same manner, and under the same rules, regulations and restrictions as prescribed by the militia laws relative to the infantry.

Rules and regulations.

6. *Be it further enacted*, That each company of artillery, light infantry, grenadiers or riflemen may form such rules and regulations for their own government as they may think proper, which rules and regulations, when formed, shall be binding on such company, to all intents and purposes, and in the same manner as if they had been particularly mentioned within this act: *Provided*, that such rules and regulations, when formed, be not inconsistent with the laws of this state or of the United States.

Returns.

7. *Be it further enacted*, That each captain of the light infantry, grenadiers or riflemen, shall annually, on or before the first day of August, make a return of their companies to the commanding officer of the regiment in which such captain respectively resides, under a penalty of twenty-five pounds.

Persons enrolled not to return to the infantry.

8. *Be it further enacted*, That no person who now is, or shall hereafter procure himself to be enrolled in any company of artillery, light infantry, grenadiers or riflemen, shall be permitted to return to the infantry, except by the consent of the field officers of the regiment, or by removal out of the county, regiment or battalion wherein such person was enrolled; and it shall be sufficient for any person to be enrolled and approved by the captain of artillery, light infantry, grenadiers or riflemen respectively, without the intervention of any other officer: *Provided nevertheless*, that any person enrolling himself with any captain of artillery, light infantry, grenadiers or riflemen, shall be subject to perform all the duties and exercises in the infantry, and under the officers thereof, until such person so enrolling himself shall fully and completely equip himself with clothing and arms required and settled on for such company of artillery, light infantry.

grenadiers or riflemen, and a certificate to that effect procured from the captain with whom he has enrolled, of the company of artillery, light infantry, grenadiers or riflemen, as the case may be, and by him produced to the captain of infantry, under whom such person served before such enrolment.

9. *And be it further enacted*, That all acts and clauses of acts, which come within the meaning and purview of this act, be and they are hereby declared to be repealed and made void.

Former acts repealed.

CHAP. 711.

An act to regulate and ascertain the pilotage which shall be allowed to the pilots at Ocacock Inlet and Swashes. (See 1798, c. 515—1805, c. 691.)

1. *Be it enacted, &c.* That from and after the passing of this act, all branch pilots legally authorised by the commissioners of either of the ports of Washington, Edenton or Newbern, to take charge of vessels to bring in over Ocacock bar, and over either of the Swashes, shall be entitled to demand and receive of the commander of such vessel or vessels as they may have charge of, the following pilotage, to wit: for every vessel or vessels of sixty tons burthen, from the outside of the bar, at any distance within the limits of pilot ground to Beacon Island Road or Wallace's Channel, six dollars; and for all vessels drawing eight feet water and less than twelve feet, one dollar per foot; and for all vessels drawing twelve feet or upwards, one dollar and twenty-five cents per foot, and two dollars for each vessel over either of the Swashes. And in all other cases, the pilotage to remain the same as established by an act of the General Assembly passed in the year 1794, any law, usage or custom to the contrary notwithstanding. *Provided always*, that no vessel less than sixty tons burthen shall be compelled to take a pilot.

Rate of pilotage.

2. *And be it further enacted*, That all other acts and clauses of acts that come within the meaning and pur-

Former acts repealed.

view of this act, be and the same is hereby repealed and made void.

Read three times and ratified in General Assembly, }
20th day of December, Anno Dom. 1806. }

JOSEPH RIDDICK, S. S.

JOHN MOORE, S. H. C.

Copy.—WILL. WHITE, Secretary.

Benjamin Wilkams, Esq. governor.

At a General Assembly, begun and held at Raleigh, on Monday the sixteenth day of November, in the year of our Lord one thousand eight hundred and seven, and in the thirty-second year of the independence of the said state.

CHAP. 712.

(a See 1806, c. 693 and 694.) An act to amend an act, entitled "An act for the more uniform and convenient administration of justice within this state," and one other act supplementary thereto, passed the last session of the General Assembly.(a)

Preamble.

Whereas the mode pointed out by the first section of the act amendatory to the above-mentioned act, of selecting jurors from the tax returns, is often attended with great injury to the administration of justice :

Manner of appointing jurors in future.

(b See 1806, c. 693, s. 11.)

To examine the jury lists already made.

1. *Be it therefore enacted, &c.* That it shall be the duty of the justices of the several county courts within this state, in the appointment of jurors, (b) to select and choose such only as are well qualified to discharge the important trust and duty of jurors.

2. *And be it further enacted,* That the justices of the several county courts within this state, at their sessions which may next happen after the passing of this act, are hereby required carefully to examine the jury lists already made out, and diligently enquire if any persons qualified to be jurors as above-mentioned, are omitted, and whether any persons not qualified to be jurors as above-mentioned, have been inserted ; and if they find that any have been omitted, they shall add them to the jury list to be drawn as directed by the said act, and if they find that any have been inserted not possessing the requisite qualifications, they shall direct the name of such person to be stricken out from the jury list ; and to obtain full information on this subject, the said

courts may examine the sheriffs, clerks, or any other persons, on oath or affirmation.

3. *And be it further enacted*, That the jury list so as aforesaid made up by the several county courts in this state, shall exist for the space of two years in its operation, instead of three years, as prescribed by the said act. Jury list to exist for two years.

4. *And be it further enacted*, That the several superior courts within this state shall hereafter have concurrent jurisdiction^(a) with the several county courts within their respective counties, of all pleas and prosecutions of the state, and of all actions of slander, with full power and authority to pass thereon every proper judgment, sentence or decree, and to issue all necessary process to carry the same into complete effect. The superior courts to have concurrent jurisdiction with the county courts in certain cases.
(a See 1806, c. 693, s. 1.)

CHAP. 713.

An act to amend an act, entitled "An act to amend an act passed at Hillsborough, in the year one thousand seven hundred and eighty-two, for establishing courts of equity, and to regulate proceedings in appeals from the courts of pleas and quarter-sessions, to the superior courts of law."^(b)

(b See 1782, c. 177.)

1. *Be it enacted, &c.* That when any defendant or defendants, in any action of debt, covenant or assumpsit, shall appeal^(c) from the judgment of any court of pleas and quarter-sessions to a superior court, and shall not, upon the trial of such appeal, diminish the sum recovered by the plaintiff or plaintiffs in the courts of pleas and quarter-sessions, it shall and may be lawful for the said superior court (if it appear that the appeal was taken for the purpose of delay) to give judgment in behalf of the plaintiff or plaintiffs, not only for the amount of the verdict rendered in said court, but also for a sum in addition thereto, not exceeding four per centum per annum, on the principal sum recovered, from the time of the judgment in the inferior court, to the time of entering up the same in the superior court; which additional sum shall be considered as a penalty, and shall not draw interest in cases where interest is allowed on judgments.

If defendant appeals, for delay, he is to pay additional interest of 4 per cent.
(c See 1801, c. 574.)

2. *And be it further enacted*, That when any plaintiff or plaintiffs shall appeal from the judgment of any court of pleas and quarter-sessions to a superior court,

Costs not recovered where plaintiff recovers no more in

superior than in county court. and shall not recover in said superior court a greater sum than that recovered in the court of pleas and quarter-sessions, independently of the interest accrued since the former judgment, he, she or they shall not recover the cost of the appeal, but shall be liable, at the discretion of the superior court, to pay the same.

(1801, c. 574.)

Repealing
clause.

3. *And be it further enacted*, That all acts and clauses of acts that come within the purview and meaning of this act, be and the same are hereby repealed.

CHAP. 714.

(See 1804, c. 661 and 662—
1814, c. 870.)

An act to authorise the treasurer, in the name of the state of North Carolina, to subscribe in the Banks of Cape Fear and Newbern, for the number of shares which the state has reserved the right of subscribing for, in each of the said banks.

Treasurer to
subscribe for
250 shares in
each bank.

1. *Be it enacted, &c.* That the public treasurer be, and he is hereby authorised to subscribe in either or both of said banks, at such time as he shall deem it expedient, and he and the directors of said banks, or either of them, shall agree on, for two hundred and fifty shares of bank stock, on the following terms and conditions, to wit: That he pay at the time of subscribing, out of any monies of the currency of the state in the public treasury, one-third of the amount of said shares; that he pay at the expiration of twelve months thereafter one other third of the said amount, and at the expiration of twelve months after the payment of the last mentioned third, the remaining third and full amount of said shares; and that for the deferred payments he pay an interest, at the rate of four per centum per annum from the time of subscribing: *Provided, however*, that after paying the last instalment to either of the aforesaid banks, the treasurer shall be authorised to borrow therefrom the amount of the said instalments from time to time, on the terms on which loans are made therein, until the dividends received be sufficient to pay off the sum borrowed.

Manner of pay-
ing for the
shares.

Treasurer, &c.
to appoint 3 di-
rectors for each
bank.

2. *And be it further enacted*, That the treasurer, together with the comptroller and secretary, or any two of them, be authorised and empowered to appoint three additional directors of each or both of the banks, in which subscriptions shall be made as aforesaid, and the directors for each or either of said banks so ap-

pointed, shall possess the same qualifications, have the same power, and be subject to the same rules, regulations and restrictions as the other directors, which shall be chosen by the stockholders.

3. *And be it further enacted,* That in case the directors of said banks respectively, or either of them, shall accept of the above stated terms, and the subscriptions shall be made by the treasurer for the number of shares first above stated, then and in that case the bank-notes of the bank or banks in which the said subscriptions shall be made, shall be and are hereby declared to be receivable in payment of all public dues, and at the public treasury.

The notes of these banks to be received in payment of public dues and at the treasury.

4. *And be it further enacted,* That it shall be lawful for the president and directors of each of the aforesaid banks to establish offices of discount, or offices of discount and deposit, at other places than the towns wherein the said banks are fixed, or where, by their respective charters, branches may be established; provided that not more than two such offices, other than aforesaid, shall be established and kept in existence by either of the banks at the same time, and that the management of such offices be committed to such persons, and under such agreements, and subject to such regulations as the president and directors respectively may deem proper, not contrary to the constitution of this state, or of the United States, or of the aforesaid corporations. *Provided also,* that no office of discount, or of discount and deposit, shall be established by either of the said banks, unless they accede to the terms of subscription proposed by this act on the part of the state.

Offices of discount may be established.

5. *Be it further enacted,* That the said banks, in consequence of any subscription by the treasurer in behalf of the state, shall have power to issue notes only in the same ratio as that established by their respective charters, that is to say, in the ratio of three for one, on the amount of its capital stock actually subscribed and paid for, over and above the monies deposited for safe keeping.

Power to issue additional notes.

CHAP. 715.

(See 1811, c. 818.)

An act to repeal an act, entitled "An act to repeal all laws and clauses of laws heretofore passed, authorising the secretary of state to issue land warrants for military services," passed in 1805.

Act repealed.

1. *Be it enacted, &c.* That the said act be and the same is hereby repealed and made void to all intents and purposes.

How military land warrants in future shall issue.

(a A board established to grant warrants, see 1819, c. 992.)

2. *And be it further enacted,* That hereafter no military land warrant shall issue but under the authority of the General Assembly, (a) declared by resolution empowering the secretary of state to issue such warrant, unless the person in whose name application is made for such military warrant appears on the muster rolls, and to be fairly entitled to such warrant; in which case the secretary of state may issue a warrant without a resolution, as before mentioned.

3. *And be it further enacted,* That this act shall be in force from and after its passing.

CHAP. 716.

(b See 1784, c. 226, 1789, c. 311, 1791, c. 352.)

An act to amend an act, entitled "An act directing the mode of proceeding against the real estates of deceased debtors, where the personal estate is insufficient for the payment of the debts." (b)

Remedy to be had where executors, &c. neglect to plead.

1. *Be it enacted, &c.* That in all suits where executors or administrators of any deceased person shall omit to plead fully administered, no assets, or not sufficient assets to satisfy the plaintiff's demand, or where they shall plead the said pleas, or any of them, and the same shall be found against such executors or administrators, and they shall be, or afterwards become insolvent, so that the creditor cannot procure satisfaction for his demand, such creditor shall and may have the same remedy against the real estate of such deceased debtor in the hands of the heirs or devisees, and the same process as is provided by the aforesaid act; and if judgment be rendered against the heirs or devisees, or any of them, execution shall and may issue against the real estate of the deceased debtor in the hands of such heirs or devisees: *Provided,* that no creditor shall be entitled to the remedy aforesaid against the heir or devisee, who shall be guilty of any negligence or collu-

sion in prosecuting his suit, whereby the executor or administrator shall become insolvent, to the detriment of the heir or devisee, which negligence or collusion such heir or devisee may shew on an issue joined under the direction of the court before whom the trial shall be had.

2. *And be it further enacted,* That when any heir or devisee of real estate against whom judgment may pass, shall transfer or alien the same, such heirs or devisees shall be liable to the creditors in their proper estate to the value of such estate so transferred or aliened, which value shall be ascertained by the jury impanelled to try the issues joined on the proceedings between the said parties, and execution shall and may issue accordingly.

If an heir, &c. transfer property, they are liable in their proper estate.

3. *And be it further enacted,* That when any creditor of a deceased person claims to have judgment against the real estate of such debtor in the hands of the heirs or devisees, by reason of the executors or administrators failing to plead the pleas aforesaid, or on account of the insolvency of the executors or administrators as herein before mentioned, the heirs or devisees of such deceased debtors shall and may be permitted to shew, as heretofore, that the executors or administrators have assets, and on an issue between them and the creditor, that the executor or administrator are not insolvent, but have property sufficient to pay part or the whole of the debt demanded, and costs; and if both the said issues shall be found in whole, or in part, for the heirs or devisees, judgment shall be rendered accordingly, otherwise for the creditor.

Course to be taken where creditors claim to have judgment against the real estate.

4. *And be it further enacted,* That nothing herein contained shall be construed to repeal the aforesaid act, or any part thereof, this act being intended only to extend the remedy provided by said act for creditors against the real estate of their deceased debtors; nor shall the provisions contained in this act affect the remedy which any creditor has, or may have in equity, against the real estate of any deceased debtor, or in any manner change the rules of decision in equity in any such case.

Nothing herein to repeal the former act.

CHAP. 717.

Preamble.

(See 1806, c. 696, and 1819, c. 1005.)

Articles of conventional agreement.

Whereas the states of Georgia and North-Carolina, by their respective commissioners duly authorised for that purpose, did, on the eighteenth day of June, in the year of our Lord one thousand eight hundred and seven, at Buncombe court-house, enter into Articles of Conventional Agreement, as follow :

ARTICLE I. It is mutually agreed and admitted, the territories of the said states of Georgia and North-Carolina, as far as they adjoin each other, are, and of right ought to be, separated and bounded by the thirty-fifth degree of North latitude ; and for the purpose of preventing in future all manner of dissensions concerning jurisdiction, the underwritten commissioners will proceed forthwith to ascertain the said thirty-fifth degree of North latitude, and to run and mark the line accordingly ; which line, when ascertained and completed, with joint concurrence, shall forever after be regarded as the line of separation and boundary between the two states.

ARTICLE II. The commissioners on the part of Georgia do not consider their powers competent to enter into any stipulations which would bind the government of the said state to confirm entries or grants for land heretofore made or obtained under the authority of the state of North-Carolina, which land, on the running of the line, may be found to be within the state of Georgia ; but, impressed with the justice of a certain proportion of the said claims, and the peculiar circumstances which entitle them to consideration, the said commissioners promise and agree to recommend them in a special manner to the liberality of their government, not doubting but that the Legislature thereof will, by law, provide for the confirmation and establishment of the said titles, in a manner which will afford a satisfactory and adequate relief. And to this end, the said commissioners will recommend the establishment of an impartial tribunal for the special purpose of enquiring into and ascertaining the various descriptions of such claims, and of determining on each according to their respective merits, and as reason and equity may require ; which tribunal the said commissioners will also recommend to be composed of three persons to be appointed and paid by each state ; but they shall con-

vene and hold their meetings in the state of Georgia, and their decisions shall be conclusive.

ARTICLE III. There having been great dissensions between the people resident in the neighbouring counties of Buncombe and Walton, and the said dissensions having produced many riots, routs, affrays, assaults, batteries, trespasses, woundings and imprisonments, as well on the one side as on the other, and it being of primary importance that peace and tranquillity should be restored, and all animosity and ill-will forever buried between the people, who, from their local situations, will, in all probability, be constrained to continue in the vicinity of each other; and as the several outrages committed on both sides proceeded more (as the undersigned are impressed) from a mistaken zeal to support the government to which they thought themselves constitutionally bound, than from a wish to injure their neighbours or disturb the public peace, the undersigned agree to recommend, in the most earnest manner, to the Legislatures of their respective states, to pass laws of amnesty, forgiveness and oblivion for all such offences,^(a) (under the degree of capital) as may have been committed within the said counties of Buncombe and Walton respectively, subsequent to the tenth day of December, in the year 1803, and which shall have arisen from, and had relation to the disputes which existed concerning the jurisdictions of the two states.

Pardon of offences in Buncombe recommended.

(a See post. c. 718.)

And whereas the said commissioners, with like authority, did, on the 27th day of June, in the year aforesaid, at Douthard's Gap, enter into Articles in addition and supplementary to the Convention agreed on between the commissioners of Georgia and North-Carolina, at Buncombe court-house, on the 18th day of June, in the year aforesaid, which Articles are as follow:

Supplementary convention.

The commissioners of the states of Georgia and North-Carolina having discovered, by repeated astronomical observations made on the Blue Ridge, and elsewhere, that the 35th degree of North latitude is not to be found on any part of said ridge of mountains, east of the line established by the general government, as the temporary boundary between the white people and the Indians; and having no authority to proceed over that boundary for the purpose of ascertaining the said 35th degree of North latitude, and of running and marking the line accordingly, and being desirous that

Concerning the 35th degree of north latitude.

all causes of collision and irritation between the jurisdictions and people of the two states may be effectually and completely prevented, have agreed to the following Articles, in addition and supplementary to the Convention agreed to at Buncombe court-house, on the 18th day of the present month, viz :

Admission by
the commissioners
of Georgia.

ARTICLE I. The commissioners of Georgia, for and on the part of their state, acknowledge and admit, which acknowledgment and admission are founded on the aforesaid astronomical observations, that the state of Georgia hath no claim to the soil or jurisdiction of any part of the territory north or west of the ridge of mountains which divides the eastern from the western waters, commonly called the Blue Ridge, and east or south of the present temporary boundary line between the white people and the Indians ; and that they will consequently recommend to the Legislature of the state of Georgia to repeal, at their next ensuing session, the act to establish the county of Walton, and to abrogate and annul all executive and ministerial or other proceedings for the organization thereof.

Commissioners
of North-Carolina
promise to recommend
that the laws
concerning penalties
in the county of Buncombe
be executed with clemency.

ARTICLE II. The commissioners on the part of the state of North-Carolina, promise and agree to recommend to their government, and particularly to the magistrates, sheriffs and other officers, civil and military, in the county of Buncombe, to execute the laws concerning forfeitures and penalties, and in any other respect where the state may be concerned, (under the degree of felony,) upon and towards the people who have adhered to the state of Georgia in the late dissensions concerning jurisdiction, with mildness and clemency ; and if the said officers can do it consistently with their obligations of official duty, that they forbear to institute suits, and to distrain or execute for forfeitures and penalties incurred as aforesaid, between the tenth day of December, in the year eighteen hundred and three, (1803,) and the date of this agreement, until the sense of the Legislature shall be had and known thereon.

In order, therefore, that said Conventional Agreement, and the Articles, additional and supplemental thereto, may be carried into full and complete effect :

The Conventions confirmed.

Be it enacted, &c. That the said Conventional Agreement, and the Articles in addition and supplementary thereto, and all and every article and clause thereof, be and the same are hereby fully ratified and confirmed.

CHAP. 718.

An act to pardon certain offences committed in that part of Buncombe county formerly claimed by the state of Georgia.(a)

(a See conventional agreement with Georgia, ante. c. 717, s. 3.)

1. *Be it enacted, &c.* That all crimes and misdemeanors, the punishment whereof is not by law capital, which have been committed between the tenth day of December, in the year of our Lord one thousand eight hundred and three, and the twenty-seventh of June last past, within that part of the county of Buncombe which was formerly claimed by the state of Georgia, and called the county of Walton, be, and the same are hereby pardoned, released, and put into total oblivion.

Offences pardoned.

2. *And be it further enacted,* That this act shall be in force from and after the passage of an act by the legislature of the state of Georgia, ratifying and confirming the conventions entered into by and between the commissioners on the part of that state, and the commissioners on the part of this state, on the 18th day of June, and 27th day of June, A. D. 1807.

When this act shall be in force

CHAP. 719.

An act to amend the penal laws, so far as respects the trial of slaves charged with capital offences.

1. *Be it enacted, &c.* That from and after the passing of this act, all slaves charged with criminal offences, the punishment of which is capital, shall be tried at the regular terms of the county courts(b) of the county in which such offences are alleged to have been committed, and under the same rules, regulations and restrictions as by law now directed.

Slaves to be tried at the regular court terms.

(b By superior court. See 1816, c. 912.)

2. *Be it further enacted,* That so much of the laws now in force as authorises courts to be specially convened for the trial of slaves charged with capital offences, be, and the same is hereby repealed and made void.(c)

And not by special courts.

(c See 1792, c. 381.)

CHAP. 720.

(a See 1777, c. 114, s. 6.) An act to give the right of appeal in trial of caveats and suspensions.(a)

Appeal lies from trials of caveats, &c.

Be it enacted, &c. That in the trial of caveats of land, and suspensions of grants of lands, where either party is dissatisfied with the verdict of the jury, he may appeal to the superior court of his county, under the same rules, regulations and restrictions as are now by law established for prosecuting appeals to the superior courts.

CHAP. 721.

(See 1803, c. 746.) An act to allow interest on judgments recovered in actions brought on contract.

What judgments to bear interest.

Be it enacted, &c. That in all actions which shall hereafter be brought to recover money due by contract hereafter to be made, except on penal bonds, it shall be the duty of the jury to distinguish by their verdict, the sum due as principal, from the sum allowed for interest; and the principal sum due on all such contracts, shall carry interest, from the time of rendering judgment thereon until the same shall be paid and satisfied; and the judgments in such actions shall be rendered according to the provisions of this act.

CHAP. 722.

An act providing relief for securities in certain cases.

Remedy for one security against another.

Be it enacted, &c. That where there are two or more securities for the performance of any contract whatsoever, and it shall so happen that one or more of them may have been, or shall be compelled to perform and satisfy the same, or any part thereof, and the principal be insolvent or out of the state, he, she or they may have and maintain his, her or their action on the case against the other security or securities, for a just and rateable proportion of the sum which he, she or they may be compelled to pay as aforesaid, whether of principal, interest or costs, to be recovered before any court of record or justice of the peace, having jurisdiction

thereof; any law or custom to the contrary notwithstanding.

CHAP. 723.

An act for the relief of purchasers at execution sales, in certain cases.

Whereas cases frequently occur where property sold on execution, proves not to have been the property of the person against whom such executions have issued, by reason of which the innocent purchaser loses the same, without any remedy at law to be reimbursed, which not only proves injurious to such purchaser, but frequently operates to discourage the sale of property for such full prices as the same ought to bring: For remedy whereof,

Preamble.

Be it enacted, &c. That from and after the passing of this act, where any property, either real or personal, shall be sold on any execution of *fieri facias*, *venditioni exponas*, or order of sale, issued from any court of law or equity in this state, or from any justice of the peace, such justice having jurisdiction and authority to issue the same, by any officer lawfully authorised to make such sale, and the sale be legally and bona fide made, and such property so sold be not the proper goods and chattels, lands and tenements (as the case may be) of the person against whose estate such execution, *venditioni exponas*, or order of sale, may have issued, by reason of which the purchaser at such sale may have been deprived of the same property, or may have been compelled to pay damages in lieu thereof to the real owner, then, and in every such case, it shall be lawful for such purchaser, his executors or administrators, to sue such person against whom such execution, *venditioni exponas*, or order of sale, may have so issued, or the persons legally representing him, in an action on the case, in any court of law in this state, and recover such sum as he may have paid for such property, with interest thereon from the time of such payment. *Provided always*, that such property, if the same be personal property, be present at such sale, and actually delivered to such purchaser.

Remedy for purchasers against defendants in execution.

CHAP. 724.

An act declaring what evidence of title to lands, in certain cases, shall be good.

Preamble.

Whereas many citizens of this state who claim title to lands purchased from the original proprietors, to whom large tracts of land were granted by the King of Great-Britain before the late revolution, are unable to produce either the original grants from the Crown to the said proprietors, or registered copies thereof: And whereas there is good reason to believe that the said grants, and the registration thereof, were destroyed at Wilmington, by the enemies of this state, during the late war:

Neither the original grant nor a certified copy is necessary to be produced in sales for H. and H.E.M'Culloch.

Be it enacted, &c. That in all trials at law, where the title of either plaintiff or defendant shall be derived from Henry Eustace M'Culloch or Henry M'Culloch, out of their tracts number one and three, it shall not be required of such party to produce, in support of his title, either the original grant from the Crown to the proprietors, or a registered copy thereof; but in all such cases, the grant or deed executed by such reputed proprietors, or by his, her or their lawful attorney, or a certified copy thereof, shall be deemed and held legal and sufficient proof of the title of such proprietors, in as full and absolute manner as though the said original grants were produced and given in evidence; any law, usage or decision to the contrary notwithstanding.

CHAP. 725.

An act prescribing the duties of the clerks of the county courts and registers in this state, in certain cases, and for other purposes.

The clerk to receive the register's fees with his own.

1. *Be it enacted, &c.* That when any deed or other instrument of writing shall be offered for probate in any of the county courts in this state, it shall, and is hereby expressly declared to be the duty of the clerks of said courts to receive, with his own, the register's fees on all and every such deeds and other instruments of writing admitted to probate for registration; (a) and shall, within twenty days after the rise of each and every county court, deliver over to the registers of their respective counties, on application, all such deeds and

(a See 1784, c. 223, s. 4—1797, c. 482.)

other instruments of writing which have been admitted to probate for registration, together with the register's fees on the same.

2. *And be it further enacted*, That it shall be the duty of the registers within the several counties in this state, within twenty days after the rise of each and every county court as aforesaid, to apply at the clerk's office of their respective counties, for all deeds and other instruments of writing as aforesaid admitted to probate for registration; and in case of neglect by either clerk or register in performing the duties aforesaid, the person so neglecting shall forfeit and pay the sum of five pounds for every such offence, to be recovered by warrant before a justice of the peace, one-half to the use of the poor of the county in which such recovery may be had, the other half to the use of any person suing for the same, and be further liable for all damages the party injured by such neglect may sustain.

The clerk to deliver over deeds, &c. to the register within 20 days.

The register to call at the clerk's office.

Penalty for neglect of duty.

3. *And be it further enacted*, That it shall be the duty of the several county court clerks within this state, at the next court of pleas and quarter-sessions which shall be held after the first day of May next, to deliver over to the registers of their respective counties, all deeds and other instruments of writing (if any) on which the register's fees have been paid, that have been heretofore admitted to probate for registration, under the penalty of fifty pounds, to be recovered before any jurisdiction having cognizance thereof, to the sole use of the person suing for the same.

Deeds, &c. lying in the clerk's office, to be delivered to the register.

4. *And be it further enacted*, That hereafter, the public registers in each county in this state, for registering divisions of land, shall receive the sum of one shilling for each lot or dividend therein described, agreeably to the plat of said division, and the same fees for every copy thereof. And it shall be the duty of each and every public register in this state, to leave at each and every county court of pleas and quarter-sessions within their respective counties, all grants or state patents which have been delivered to them for registration, one week previous to the sitting of such court, and on which their fees have been paid, ready to be delivered to the owner thereof.

Fees for registering divisions of land.

Grants or state patents.

5. *And be it further enacted*, That all acts and parts of acts that come within the purview and meaning of this act, be and the same are hereby repealed and made void.

CHAP. 726.

An act to cede to the United States of America the jurisdiction of certain land for the purposes therein mentioned, and to allow further time to the general government for finishing the fort at or near the mouth of Cape-Fear River.

Preamble.

Whereas the harbour of Old Topsail Inlet is at present in an unguarded state, and is generally nineteen feet water on the bar of said harbour, which renders it necessary that the United States should have the jurisdiction of certain land convenient thereto, in order that a fort may be erected thereon for the defence of the said port and harbour :

Jurisdiction of
5 acres at Old
Topsail ceded
to the United
States for a fort.

1. *Be it enacted, &c.* That five acres of land, in the county of Carteret, on the west side and adjoining Old Topsail Inlet, be, and the same is hereby ceded to the United States of America, for the purpose of erecting a fort thereon for the defence of the said port and harbour.

Commissioners
to survey and
mark the same.

2. *And be it further enacted,* That Bryant Helen, Jeconias Pickens and James Stanton be, and they are hereby appointed commissioners to survey, lay off and mark the boundaries of the said five acres, and shall return a correct plan thereof to the office of the secretary of state; and the said plan so by them returned, shall be deemed full and sufficient evidence of the boundaries aforesaid: *Provided,* that the land ceded by virtue of this act is subject to the following condition: That the said fort shall be erected thereon within three years from the passing thereof. *And provided also,* that nothing herein contained, shall be construed to debar any of the officers of this state from serving any process or levying executions within the limits ceded by this act, in the same manner and to the same effect, as if this act had never been passed.

Condition of the
cession.

And whereas, from different causes and circumstances, the fort at Smithville is not perfectly completed, although it is so far done as to be ready for the mounting of cannon,

Fort at Smith-
ville.

3. *And be it further enacted,* That all the grants and provisions heretofore made respecting the same, shall continue and be in full force: *Provided,* the said fort is finished within the year 1808; any law, usage or custom to the contrary notwithstanding.

CHAP. 727.

An act to repeal and supply the place of the fourth section of an act passed in the year one thousand seven hundred and ninety-one, entitled "An act to provide a proper seal for the state, and the several courts of record." (a) (a See 1791, c. 344.)

1. *Be it further enacted, &c.* That in all cases where the seal annexed to a grant issued by the state, is, or shall be lost or destroyed, the governor for the time being may, on the certificate of the secretary of state that such grant was fairly obtained, cause the seal of the state to be affixed to such grant, and the same so affixed shall give the said grant the same validity as the seal first affixed thereto. Seals lost may be re-affixed to grants.

2. *And be it further enacted,* That the fourth section of the before recited act be, and the same is hereby repealed. 4th section of recited act repealed.

CHAP. 728.

An act to amend an act, passed in the year 1791, entitled "An act to improve the inspection of flour and other commodities, in this state, and to alter the inspectors' fees in other instances." (b) (b See 1791, c. 345.)

Whereas no penalty is by the said act imposed on those who violate the provisions enjoined by the first section thereof:

1. *Be it therefore enacted, &c.* That if any miller or manufacturer of flour shall put up flour in any barrel, for the purpose of sale or exportation, which barrel does not contain one hundred and ninety-six pounds nett flour, well ground, bolted and packed, or shall not brand on each barrel of flour the nett weight of the same, in figures, and also the first letters of his christian name, and his surname at full length; or shall put up flour for sale or exportation as aforesaid, in a barrel not made of good seasoned oak or ash wood, twenty-six inches in length, bounded with ten good hoops, and with heads seventeen inches in width, every such miller or manufacturer so offending against any of the said provisions, shall forfeit and pay the sum of five pounds, to be recovered before any jurisdiction having cognizance thereof, by any person suing for the same. Penalty for putting up flour improperly.

2. *And be it further enacted,* That when a person shall sell any barrel or barrels of flour not containing In case of deficiency what may be done.

the full quantity by law required, the purchaser, unless there shall be a special contract to the contrary, shall be allowed to recover the value of the deficiency in an action on the case, for money had and received, before any jurisdiction having cognizance of the same.

CHAP. 729.

An act to amend an act, entitled "An act to prevent the selling of spirituous liquors and other articles at church or meeting-house yards on days of divine worship," passed in the year one thousand eight hundred.(a)

(a See 1800,
c. 564, 1808,
c. 761.)

Penalty may be
recovered for
the poor.

1. *Be it enacted, &c.* That any person may recover in his own name, to the use of the poor, the penalty inflicted by the act aforesaid.

Penalty for in-
toxication, &c.

2. *And be it further enacted,* That if any person shall be intoxicated at a church, meeting-house, or any other place appointed for divine worship, in the time people shall be there assembled for the purpose of divine worship; or shall, at such time and place, quarrel, fight, or be guilty of any other disorderly behaviour, he shall forfeit and pay to the use of the poor of the county in which the offence shall be committed, the sum of two pounds ten shillings, to be recovered by and in the name of any person who will sue for the same, before any justice of the peace of the said county: *Provided,* the warrant for the said penalty shall be issued within ten days after the offence was committed: *And provided also,* that if either party shall think themselves aggrieved by the judgment of the justice before whom such trial shall be had, may have the right of appeal to the succeeding county court; and in all such cases, it shall be the duty of the county attorney to appear and prosecute in behalf of the state.

May appeal.

Former act re-
pealed.

3. *And be it further enacted,* That an act passed at the last session of the General Assembly, entitled "An act to prevent the selling of spirituous liquors and other articles at church or meeting-house yards on days of divine worship," be, and the same is hereby repealed.

CHAP. 730.

An act to amend an act concerning proving wills and granting letters of administration, and to prevent frauds in the management of intestate estates. (a)

(a See 1715, c. 10, 1813, c. 855.)

1. *Be it enacted, &c.* That in all cases which may hereafter happen, where the testator or testatrix may appoint any person or persons as his or her executor or executors, who reside out of the limits of this state; or where a man may marry a woman who is appointed executrix to the estate of a deceased person, and he resides out of the state, or is about to remove or make away with the estate of the testator, to the injury of his creditors and representatives, that, in any of the above stated cases, either at the time of the qualification of such executor or executors, upon application made to the county court by any creditor or representative of the estate, it shall be made appear by sufficient testimony, in open court, to the satisfaction of said court, that such injury is likely to ensue, such executor or executors, as above stated, shall be obliged to give bond and security for the faithful administration of the estate, as is required by law in cases of administration on the estates of deceased persons, agreeably to the above mentioned act of Assembly, passed in the year one thousand seven hundred and fifteen, and chapter 10. And there shall be the same remedy upon such bond given to the party grieved, as upon the bond of an administrator in like cases.

Wherein executors to give bond and security.

2. *And be it further enacted,* That the several courts aforesaid shall be, and they are hereby invested with full power and authority, by such rules and orders as they may think proper to make, to compel the said executor or executors to enter into bond and security as aforesaid; and upon due notice, by citation or otherwise, should they, or any of them, stand out and refuse so to do, the said courts respectively shall and may order and decree that the power and authority of the executor or executors, as aforesaid, be null, and thenceforth all the power and authority of the said executor or executors shall cease, and the said courts shall and may then grant administration with the will annexed, or otherwise, as the case may require, to such person or persons as they may deem meet.

Executor to enter into bond, or his power to cease, by decree of court.

CHAP. 731.

An act to regulate the charges of sheriffs, coroners, constables and other officers, in certain cases.

Preamble.

Whereas there is no law within this state making an allowance to officers whose duty it is to hold in custody any property, the keeping of which necessarily occasions expense : Therefore,

Courts to settle the charges of officers.

1. *Be it enacted, &c.* That it shall be the duty of the several courts of pleas and quarter sessions, at the first term which shall be holden in their respective counties after the first day of January in each and every year, to settle the charges of the aforesaid officers for keeping, watering and feeding any horse, cattle, hogs or sheep, taken into their custody under legal process ; and the said officers, or any of them, may maintain his or their action against the debtor whose property has been so holden in custody for the amount of the charges thereby incurred, before any court or justice of the peace having jurisdiction of the sum due therefor.

Officers to make out their accounts.

2. *And be it further enacted,* That every officer claiming under this act, shall make out his account, and, if required, give the debtor, his agent or factor, a true copy thereof, signed with his own hand, and shall return the said account, with the execution or other process under which the property has been seised, to the justice or to the court to whom the said execution or process is returnable ; and shall then and there also swear to the correctness of the several items therein set forth, otherwise he shall not be permitted to make any recovery from the debtor.

Officers to take bond for forthcoming of property levied on.

3. *And be it further enacted,* That if any of the said officers who has levied an execution, or other process, upon property, shall permit the same to remain with the possessor thereof, it may be lawful for such officer to take a bond for the forthcoming thereof to answer the said execution or process ; but the said officer shall nevertheless remain liable, as heretofore, in all respects to the claims of the plaintiff.

CHAP. 732.

An act to divide the first and second divisions of the militia of this state into three divisions. (See 1793, c. 378, 1806, c. 708.)

Whereas it hath been ascertained with certainty, that the first and second divisions of militia of this state contain men more than sufficient to make three divisions, agreeably to the regulations of the militia laws of this state; and it being proper that the officers should be proportioned to the men, Preamble.

1. *Be it therefore enacted, &c.* That from and after the passing of this act, the first and second divisions as aforesaid, shall be divided into three divisions, in the following manner, to-wit: The first division shall be composed of the counties of Currituck, Camden, Pasquotank, Perquimons, Chowan, Gates, Hertford, Bertie, Washington and Tyrrel: And that the sixth division shall be composed of the counties of Hyde, Beaufort, Pitt, Craven, Carteret, Lenoir, Greene, Wayne, Johnston, Duplin, Jones, Onslow, New-Hanover and Brunswick: And that the second division shall be composed of the counties of Bladen, Cumberland, Sampson, Moore, Anson, Richmond and Robeson. Counties of which the divisions shall consist.

2. *And be it further enacted,* That each division shall compose the following brigades: The first brigade for the first division, shall be composed of the counties of Currituck, Camden, Pasquotank, Perquimons, Chowan and Gates: That the thirteenth brigade for the first division, shall be composed of the counties of Hertford, Bertie, Washington and Tyrrel: That the second brigade for the sixth division, shall be composed of the counties of Hyde, Beaufort, Pitt, Craven and Carteret: That the twelfth brigade for the sixth division, shall be composed of the counties of Lenoir, Greene, Wayne and Johnston: And that the third brigade for the sixth division, shall be composed of the counties of Duplin, Jones, Onslow, New-Hanover and Brunswick: And that the fourth brigade for the second division, shall be composed of the counties of Bladen, Cumberland, Sampson and Moore: And that the fourteenth brigade for the second division, shall be composed of the counties of Anson, Richmond and Robeson. Counties of which the brigades consist.

3. *And be it further enacted,* That the divisions and brigades aforesaid, shall be officered agreeable to the How officers are to be appointed

militia laws of this state: *Provided*, That nothing herein contained shall be construed so as to affect the appointments heretofore made within the divisions or brigades aforesaid.

4. *And be it further enacted*, That all acts and clauses of acts, which come within the meaning and purview of this act, are hereby repealed and made void.

CHAP. 733.

(See 1793, c.
378, 1806, c.
708.)

An act to annex part of the militia composing the eighth brigade of the fourth division to the ninth brigade of the fifth division of the militia of this state, and to establish one other brigade, to be denominated the fifteenth brigade.

Surry added to
the ninth bri-
gade.

1. *Be it enacted, &c.* That the county of Surry shall be added to the ninth brigade of the militia of this state, and that hereafter the counties of Surry, Wilkes and Ashe shall compose the ninth brigade of militia.

A new brigade
established.

2. *And be it further enacted*, That that part of the ninth brigade consisting of the counties of Burke and Buncombe, shall compose the other brigade, to be called and known by the fifteenth brigade.

Regiment of ca-
valry to each
brigade.

3. *And be it further enacted*, That each brigade shall be entitled to one regiment of cavalry.

4. *And be it further enacted*, That the fifteenth brigade shall compose a part of the fifth division, and shall be officered in like manner as other militia of this state.

Volunteers not
to be affected.

5. *And be it further enacted*, That nothing in the above recited act shall be so construed as to affect the present drafts or volunteers who have offered their services in the ninth brigade, to do their duty as now arranged in the first detachment, to be called into the service of the United States; any law, usage or custom to the contrary notwithstanding.

6. *And be it further enacted*, That all acts and parts of acts that come within the purview and meaning of this act, be, and the same are hereby repealed and made void.

CHAP. 734.

An act to authorise the trustees of the university of North-Carolina, in certain cases, to appoint a president of the board of trustees aforesaid, *pro tempore*.

Whereas, by the laws now in force, fifteen trustees are necessary to constitute a board, in the absence of the president, whereby the interests of the institution may suffer from the want of a body legally authorised to transact its business :

Be it therefore enacted, &c. That from and after the passing of this act, any number of the trustees, not less than seven, at any of the annual meetings of the trustees of the university of North-Carolina, shall be and constitute a quorum, and be competent to appoint a president *pro tempore*, in case of the death, resignation, absence or indisposition of the president; and when a president *pro tempore* is so appointed, they shall possess and exercise all and every the powers and authorities invested in the trustees of the university of North-Carolina by the several acts of the General Assembly now in force, or which may hereafter be in force in this state.

Seven trustees a quorum, and may appoint a president *pro tempore*.

CHAP. 735.

An act to establish a boundary line between Ashe and Burke counties.

Be it enacted, &c. That the boundary line between the counties of Ashe and Burke, shall be established and known by the following boundaries, to wit: Beginning at the Blowing Rock on the Blue Ridge, near the Yadkin Spring, running thence a due west course, crossing some of the head waters of Watauga River, to the top of the ridge dividing the head waters of Watauga River, and Elk Creek, then along the extreme height of said ridge to the Grandfather Mountain, thence along the extreme height of the ridge that divides the waters of Toe River from those of Watauga and Elk Creek, to the Tennessee line, leaving all the waters of Toe River and the head waters of Watauga south of the said due west line, in Burke, and all the waters of Elk, and the waters of Watauga, north of the said line, in the county of Ashe.

Boundary between Ashe and Burke.

CHAP. 736.

An act to annex part of the county of Burke to the county of Rutherford.

Part of Burke
county added to
Rutherford.

Be it enacted, &c. That from and after the passing of this act, the dividing line between the said counties of Burke and Rutherford, shall begin at a white oak tree that stands near the forks of the public road above James Jones's, in the line heretofore run between said counties and the public road that leads up second Broad River, shall be the line between the said counties as far as Joseph Goodbread's, thence a south-west course to the dividing ridge that divides the waters of Cove and Crooked Creeks, thence the ridge that divides the waters of Catawba and Broad Rivers, to the Buncombe county line. And the line as herein mentioned shall be the dividing line between the said counties of Burke and Rutherford; any law, usage or custom to the contrary notwithstanding.

Read three times and ratified in General Assembly, }
18th day of December, Anno Dom. 1807. }

JOSEPH RIDDICK, S. S.

JOSHUA G. WRIGHT, S. H. C.

Copy.—WILL. WHITE, Secretary.

David Stone,
Esq. governor.

At a General Assembly, begun and held at Raleigh, on the twenty-first day of November, in the year of our Lord one thousand eight hundred and eight, and in the thirty-third year of the independence of said state.

CHAP. 737.

An act erecting the west part of Buncombe into a separate and distinct county, and also part of Brunswick and a part of Bladen counties into a separate and distinct county.

Preamble.

Whereas the inhabitants in the west part of Buncombe county are very inconvenient to the court-house in said county, which renders the attendance of jurors and witnesses very burthensome and expensive, and almost impossible in the winter season: For remedy whereof,

1. *Be it enacted, &c.* That all that part of the county of Buncombe, to wit: beginning where the southern boundary line of this state crosses the highest part of the ridge dividing the waters of the French Broad from those of the Tucky Siegy River, then along the said ridge to the ridge dividing the waters of Pigeon and the French Broad River, then with said ridge to the top of Mount Pisgah, thence a direct line to the mouth of the first branch emptying into Hominy Creek on the north side above Jesse Belieu's, thence with said branch to the source, and thence along the top of the ridge, dividing the waters of French Broad and those of Pigeon River, to the northern boundary of this state, and with the state line to the line which shall divide this state from the state of Georgia, and with that line to the beginning, shall be and is hereby erected into a separate and distinct county, by the name of Haywood, in honor of the present treasurer of this state.

Boundary of the new county of Haywood.

2. *And be it further enacted,* That all justices of the peace being within the bounds of the said county of Haywood, shall exercise the same authority as they have heretofore done in the county of Buncombe; and the justices hereafter to be appointed in the usual manner, and when qualified agreeable to law, shall hold and exercise all the power and authority, and be subject to the same penalties that justices of the peace of the several counties in this state are subject to, or have a right to enjoy.

Justices within the new county to continue to act.

3. *And be it further enacted,* That John Stephenson, John Montgomery, William Deever, John Dobson, Hugh Davidson, Hollyman Battle and John Bryson be, and they are hereby appointed commissioners for fixing on a proper and convenient place at or near the centre of said county, whereon to erect the public buildings; the duties of which appointment they, or a majority of them, are requested to execute as soon as possible after the passing of this act; but until a courthouse shall be erected, or some convenient place fixed on by the commissioners aforesaid, the court of pleas and quarter-sessions for the said county of Haywood shall be held at Mount Prospect.

Commissioners to fix on a proper place for the public buildings.

4. *And be it further enacted,* That Felix Walker, John M'Farland and Thomas Lenoir, be, and they are hereby appointed commissioners for the purpose of erecting the public buildings for the said county of Haywood, at

Commissioners for erecting the public buildings.

such place as may be fixed on for that purpose ; and they, or a majority of them, after giving bond with approved security to the court of said county for the faithful performance of the duties required of them by this act, shall have full power and authority to sue for and recover all monies that may or ought to be collected for the purpose of defraying the expenses of the public buildings aforesaid, and to compel the performance of any contract that may be entered into respecting the same, and in order to defray the expenses of the public buildings intended to be made by virtue of this act.

Tax for erect-
ing public
buildings.

5. *Be it enacted*, That a tax of three shillings on every poll, and a tax of one shilling on every hundred acres of land in the said county of Haywood, shall be levied and collected for the year one thousand eight hundred and nine, by the sheriff or collector of public taxes ; and the same shall be accounted for to the said commissioners herein last mentioned, or a majority of them, under the same restrictions and regulations as sheriffs are subject to in collecting public taxes. *Provided*, that nothing herein contained shall be construed to prevent the sheriff of the county of Buncombe from collecting all arrears of taxes or other monies which he ought to collect, in the same manner as if this act had never been passed.

Justices of the
peace to hold
quarter ses-
sions, &c.

6. *And be it further enacted*, That the justices of the said county of Haywood shall hold the court of pleas and quarter-sessions for said county at the place aforesaid, and therein shall exercise all the powers and authorities that are usual and customary, and shall appoint all their necessary officers for the same as required by law, in the same manner as is exercised by the justices of the several counties within this state, any law to the contrary notwithstanding.

Buncombe su-
perior court to
have cogni-
zance over this
new county.

7. *And be it further enacted*, That the superior court of law and court of equity of Buncombe county, shall have jurisdiction and cognizance in and over the said county of Haywood, in as full and ample a manner as the said courts have in and over the said county of Buncombe ; and all causes, both civil and criminal, in the said county of Haywood, may be tried in the said courts, in the same manner as if the same causes had arisen in the county of Buncombe ; and offenders may be recognized or committed to the jail of Buncombe

county, in the same manner as if the offences had been committed in the county of Buncombe; and all appeals from the county court of Haywood, shall be taken to the superior court of Buncombe, under the same rules which govern appeals in other counties; and the said county of Haywood shall send twelve jurors to the superior court of Buncombe, to be chosen in the same manner and under the same rules as jurors are chosen in the several counties in this state to attend the superior courts, and the county of Buncombe shall choose eighteen jurors instead of thirty as heretofore. (Altered by 1813, c. 861.)

And whereas the river Wacamaw renders it frequently impossible to pass to the court-house of Brunswick county without imminent danger,

8. *Be it further enacted*, That all that part of Bladen county and Brunswick, beginning in the Wacamaw river, where the dividing line between North and South-Carolina crosses the same, then up said river to the White Marsh Branch, then up the same to the western prong and to the head of it, then a direct line to the Rough Horn Branch or Swamp; then down Rough Horn to Drowning Creek, thence down the same to the state line, thence with the same to the beginning, shall be and is hereby established into a separate and distinct county, by the name of Columbus. Boundary of the new county of Columbus. (See 1809, c. 780.)

9. *And be it further enacted*, That all the justices of the peace being within the bounds of the said county of Columbus, shall exercise the same authorities as they have heretofore done in the counties of Bladen and Brunswick; and the justices hereafter to be appointed in the usual manner, and when qualified agreeably to law, shall hold and exercise all the power and authority, and be subject to the same penalty that justices of the peace in the several counties in this state are subject to, or have a right to enjoy. Justices of the new county to continue to act.

10. *And be it further enacted*, That John Wingate, Shadrach Wooten, James B. White, Thomas Frink, Solomon Reaves, Absalom Powell and James Shipman be, and they are hereby appointed commissioners for fixing on a proper and convenient place whereon to erect the public buildings; the duties of which appointment they, or a majority of them, are requested to execute as soon as possible after the passing of this act: but until a court-house shall be erected, or some convenient place fixed on by the commissioners aforesaid, the Commissioners for fixing on a place for the public buildings.

court of pleas and quarter sessions for the said county of Columbus shall be held at the house of Stephen Barfield.

Bladen superior court to have cognizance over this new county.

(Altered by 1816, c. 917.)

11. *And be it further enacted*, That the superior court of law and court of equity of Bladen county shall have jurisdiction and cognizance in and over the said county of Columbus, in as full and ample a manner as the said courts have in and over the county of Bladen; and all causes both civil and criminal in the said county of Columbus may be tried in the said courts, in the same manner as if the said causes had arisen in the county of Bladen, and offenders may be recognized or committed to the jail of Bladen county, in the same manner as if the offences had been committed in the county of Bladen; and all appeals from the county court of Columbus shall be taken to the superior court of Bladen, under the same rules which govern appeals in other counties; and the said county of Columbus shall send twelve jurors to the superior court of Bladen, to be chosen in the same manner and under the same rules as jurors are chosen in the several counties in this state to attend the superior courts; and the county of Bladen shall choose eighteen jurors instead of thirty as heretofore.

Commissioners for erecting the public buildings.

12. *And be it further enacted*, That John Wingate, Shadrach Wooten, James B. White, Thomas Frink, Solomon Reaves, William Mooney and Absalom Powell be, and they are hereby appointed commissioners for the purpose of erecting the public buildings for the said county of Columbus, at such place as may be fixed on for that purpose; and they, or a majority of them, after giving bond with approved security to the court of said county, for the faithful performance of the duty required of them by this act, shall have full power and authority to sue for and recover all monies that may or ought to be collected for the purpose of defraying the expense of the public buildings aforesaid, and to compel the performance of any contract that may be entered into for the performance aforesaid, and in order to defray the expenses of the public buildings intended to be made by virtue of this act.

Tax for erecting public buildings.

13. *Be it enacted*, That a tax not exceeding three shillings on every poll, and a tax of one shilling on every hundred acres of land in the said county of Columbus, shall be levied and collected for the year one thousand eight hundred and nine by the sheriff or col-

lector of public taxes; and the same shall be accounted for to the said commissioners herein last mentioned, or a majority of them, under the same restrictions and regulations as sheriffs are subject to in collecting public taxes: *Provided*, that nothing herein contained shall be construed to prevent the sheriffs of the counties of Bladen and Brunswick from collecting all arrearages of taxes or other monies, which they ought to collect, in the same manner as if this act had never been passed.

14. *And be it further enacted*, That the justices of the said county of Columbus shall hold the court of pleas and quarter sessions for said county at the place aforesaid, and therein shall exercise all the powers and authorities that are usual and customary, and shall appoint all their necessary officers for the same as required by law, in the same manner as is exercised by the justices of the several counties within this state, any law to the contrary notwithstanding.

Justices of the peace to hold quarter sessions, &c.

CHAP. 738.

An act to ratify and confirm conventional articles of agreement between this state and the state of South-Carolina.

Whereas the states of North-Carolina and South-Carolina, by their respective commissioners, duly authorised for that purpose, (a) did on the eleventh day of July, one thousand eight hundred and eight, at Columbia, in the state of South-Carolina, enter into articles of conventional agreement as follow:

Preamble.
(a See 1803,
c. 631, 1804,
c. 654, 1806,
c. 696, 1813,
c. 857, 1814,
c. 880, 1815,
c. 885.)

ARTICLE I. The line beginning at a cedar stake on the Atlantic Ocean, and running thence north-west and west to a point at the Salisbury road, near the Catawba lands as described in the plans of survey begun in one thousand seven hundred and thirty-five, and ended in one thousand seven hundred and forty-six, shall be and remain the same in its whole extent as heretofore established.

Articles of agreement.

ARTICLE II. From which point at the Salisbury road, mentioned in the preceding article, instead of following the road to where it enters the Catawba lands, as at present, which road is liable to change and uncertainty, a line shall be run and marked in a direct course to the south-east corner of the said Catawba lands at

Twelve Mile Creek, which line is hereby established in lieu of the said road ; thence along the line of the said Catawba lands, pursuing its different courses to where the Catawba river enters the said lands on the north, thence with the middle stream of that river northwardly to the confluence of the northern and southern branches thereof, and from thence due west along the line as run and marked by commissioners in the year seventeen hundred and seventy-two, to the termination of the said line.

ARTICLE III. And from the termination of the said line of one thousand seven hundred and seventy-two, a line shall be extended in a direct course to that point in the ridge of mountains which divides the eastern from the western waters, where the thirty-fifth degree of north latitude shall be found to strike it nearest the termination of said line of one thousand seven hundred and seventy-two, thence along the top of said ridge to the western extremity of the state of South-Carolina. It being understood that the said state of South-Carolina does not mean by this arrangement to interfere with claims which the United States, or those holding under the act of cession to the United States, may have to lands which may lie, if any there be, between the top of the said ridge and the said thirty-fifth degree of north latitude.

ARTICLE IV. The contracting parties, for their mutual benefit and convenience, agree to adopt and confirm the lines of boundary as prescribed in the preceding articles, and to renounce respectively to each other every right, claim and pretension which may be inconsistent with the true meaning and purpose of this agreement, which is to establish between the states of South-Carolina and North-Carolina a permanent and unalterable boundary : *Provided nevertheless*, that in case at any time this agreement shall be contested or not conformed to after the ratification of it by the legislatures of said states, all the rights, claims and pretensions herein intended to be renounced and conveyed, and all other rights and claims in relation thereto, shall revive and exist in the same force and effect as they did before the signing of these presents, in favor of the state which shall conform thereto.

In order, therefore, that the said conventional agreement may be carried into complete effect,

Be it enacted, &c. That the said conventional agreement, and all and every clause and article thereof, be, and the same are hereby fully ratified and confirmed.

Ratified and confirmed.

CHAP. 739.

An act to regulate descents.

(See 1784, c. 204 and 225; 1795, c. 435; 1799, c. 522; 1801, c. 575.)

1. *Be it enacted, &c.* That the following rules be and hereby are established for regulating the descent of inheritances :

Rules of descent.

1st. Inheritances shall lineally descend to the issue of the person who died last actually or legally seised, forever, but shall not lineally ascend except as is hereinafter provided for.

2d. Females shall inherit equally with males, and younger equally with older children.

3d. The lineal descendants of any person deceased shall represent their ancestor, and stand in the same place as the person himself would have done had he been living.

4th. On failure of lineal descendants, and where the inheritance has been transmitted by descent from an ancestor, or has been derived by gift, devise or settlement from an ancestor, to whom the person thus advanced would, in the event of such ancestor's death, have been the heir or one of the heirs, the inheritance shall descend to the next collateral relations of the person last seised, who were of the blood of such ancestor, subject to the two preceding rules.

5th. On failure of lineal descendants, and where the inheritance has not been transmitted by descent, or derived as aforesaid from an ancestor, or where, if so transmitted or derived, the blood of such ancestor is extinct, the inheritance shall descend to the next collateral relations of the person last seised, whether of the paternal or maternal line, subject to the second and third rules.

6th. Collateral relations of the half-blood shall inherit equally with those of the whole blood, and the degrees of relationship shall be computed according to the rules which prevail in descents at common law : *Provided always*, that in all cases where the person last seised shall have left no issue, nor brother, nor sister,

nor the issue of such, the inheritance shall vest, for life only, in the parents of the intestate, or in either of them, if one only be living, and on the death of one of the parents, then in the survivor, and afterwards be transmitted according to the preceding rules.

This act to be in force after the 31st December.

2. *And be it further enacted*, That this act shall commence and be in force from and after the thirty-first day of December, and that all laws and clauses of laws which come within the meaning and purview of this act, be, and the same are from that day repealed and made void: *Provided always*, that nothing herein contained shall be construed to repeal so much of the existing law as prohibits children who have had lands settled on them by a deceased parent, from claiming more of the inheritance of such parent than will make their shares equal to those of the other children.

CHAP. 740.

An act to provide for children born after the making of their parent's will.

Course to be taken by the friends or guardians of such children.

1. *Be it enacted, &c.* That when any child or children is, are or shall be born after the making of his, her or their parent's will, and such parent shall die after the passing of this act, without having made provision for said child or children, such child or children may at any time within two years after the probate of said will, by his, her or their next friend or guardian, prefer a petition to the superior court, or court of pleas and quarter sessions of the county in which he, she or they reside, setting forth these facts, and praying a provision under this act, to which petition the executor of the testator, or the administrator, with the will annexed, as the case may be; and the devisees of said testator, and also his heirs, if a part of the testator's land be undeviseed, shall be parties: and copies of the petition and subpœnas shall be served in the manner by law directed in other cases of petitions.

How the court shall proceed.

2. *And be it further enacted*, That on such petition preferred as aforesaid, it shall and may be lawful for the court to adjudge and decree, that the executor or administrator as aforesaid shall pay and deliver over to the petitioner or petitioners, such portion of the per-

sonal estate of his, her or their parent, as the petitioner or petitioners would have been entitled to, had the said parent died intestate; and also to appoint five disinterested commissioners, who, or a majority of whom, with a surveyor, being first sworn to do equal and impartial justice, shall lay off to the petitioner or petitioners a share of his or their parent's lands, in whatever county situate, equal in value to the share which would have descended to the petitioner or petitioners had no will been made; and shall also return a correct valuation of the lands severally devised, and a statement setting forth what part in value of the lands of each devisee is taken away by the portion so allotted to the petitioner or petitioners.

Commissioners to lay off the petitioner's share of land.

3. *And be it further enacted*, That if there be any lands of the testator not devised, these lands, or so much thereof as may be sufficient, shall always be set apart for the petitioner or petitioners, and the commissioners are enjoined not to interfere with the lands devised, or any of them, except so far as may be necessary to make up the deficiency in the petitioner or petitioner's share.

Commissioners not to interfere with devised lands farther than necessary.

4. *And be it further enacted*, That the several legatees under the will of the testator, in order to make up the personal portion decreed by the court to the petitioner or petitioners aforesaid, shall contribute proportionally to the values of their several legacies.

Legatees to contribute in proportion to their legacies.

5. *And be it further enacted*, That upon the return to the court of the proceedings of the commissioners, the said court shall and may adjudge and decree, that the petitioner and each of them be seised, and thenceforth said petitioner shall be seised in fee simple of the share of the lands to him or her by them allotted; and the said court shall and may give judgment severally in favour of such of the devisees, of whose lands more has been taken away than is in proportion to the respective values of said lands, against such of said devisees of whose lands a just proportion has not been taken, for such sums as will make the contribution on the part of each and every of them equitable, and in the ratio of the values of the several devisees: and that the costs attending the petition and proceeding thereon, shall be within the discretion of the court.

On the return of the commissioners, the court may decree, &c.

6. *And be it further enacted*, That the petitioner or petitioners as aforesaid, after such decrees as aforesaid,

After the decree of the court, the peti-

tioners shall be
deemed lega-
tees.

shall be considered and deemed in law a legatee and devisee as to his or her portion, shall and may be styled as such in all legal proceedings, and shall be liable to all the obligations and duties by law imposed on such : *Provided always*, that all judgments on decrees *bona fide* obtained against the devisees or legatees, previously to the preferring of any petition as aforesaid, and which in law or equity were binding upon, or ought to operate upon the lands or chattels devised or bequeathed, shall be carried into execution and effect, as if this act had never been passed ; and the petitioner shall take his or her portion as aforesaid completely subject thereunto : *And provided also*, that any suit instituted either in law or equity against the devisees or legatees, previously to such petition as aforesaid, shall not be abated or abateable thereby, nor by the decree thereon, but shall go on as instituted, and the judgment and decree, unless obtained by collusion, be carried into complete execution ; but on the filing of the petition as aforesaid, during the pendency of such suit, the petitioner or any of them, by his or her next friend or guardian, may come into court, suggest the filing of the petition, and become a defendant to the said suit.

CHAP. 741.

An act to give concurrent jurisdiction to the superior and county courts.

Superior and county courts have concurrent jurisdiction, where the parties live in the same county.

Be it enacted, &c. That from and after the passing of this act, the superior courts of law and county courts shall have concurrent jurisdiction in all civil actions : (a) *Provided*, that no original writ for debt shall be issued by any clerk of the superior court against any person residing out of the county of said clerk, for any sum under fifty pounds.

(a See 1806, c. 693, s. 1 ; 1807, c. 712, s. 4 ; 1809, c. 765.)

CHAP. 742.

An act to amend the several acts now in force relative to the supreme courts. (a)

1. *Be it enacted, &c.* That it shall be the duty of the clerk of the supreme court, to report the cases which have been decided in said court since the July term of said court in the year one thousand eight hundred and four, and prepare the same for publication as soon as the same can be conveniently done; and as a compensation for his services in this respect, the said clerk shall receive the sum of twenty-five pounds for each term of said court, the cases of which are hereby directed to be reported and published, to be paid by the public treasurer of the state, upon the certificate of the secretary of state, that they are lodged in his office and ready for publication.

Clerk to report the cases, and prepare them for publication.

His compensation.

2. *And be it further enacted,* That it shall be the duty of the clerk of the supreme court, to report annually and prepare for publication the cases which shall be decided for the year then being, and deliver the same to the secretary of state, whose duty it shall be to advertise the same, and let them for printing and binding, as before directed, reserving sixty-six copies for the use of the state, to be disposed of one copy to each of the clerks of the superior courts, and one copy to each of the judges, to be delivered to them or their order: And the printer so undertaking and performing, shall have the exclusive right of publishing and vending said reports for seven years.

The clerk to report yearly.

And the secretary to contract for printing said reports.

3. *And be it further enacted,* That it shall be the duty of the clerk of the supreme court, to make out and furnish to each of the judges, fair abstracts or copies as may be required, of all cases which may be sent up to the said court for adjudication; and for the annual service of said clerk, prescribed by this act, and by other acts relative to the supreme court, he shall receive a compensation, to be estimated by any three of the judges, not exceeding one hundred and fifty pounds per annum, to be paid as heretofore directed.

The clerk to furnish the judges abstracts of cases sent up for adjudication.

Clerk's salary.

(a See 1799, c. 520; 1801, c. 576; 1804, c. 660; 1805, c. 674; 1806, c. 693; 1810, c. 784; 1811, c. 808; 1812, c. 829; 1813, c. 851; 1818, c. 962 and 963.)

CHAP. 743.

An act to limit penal actions.

(See 1715, c. 2; 1786, c. 248, s. 5; 1795, c. 443; 1814, c. 879.) *Be it enacted, &c.* That all actions and suits to be brought on any penal act of the General Assembly for the recovery of the penalty therein set forth, shall be brought within three years after the cause of such action or suit shall or may have accrued, and not after. *Provided*, that where such cause of action or suit hath heretofore accrued, the same action or suit may yet be brought within three years after the passing of this act. *Provided also*, that this act shall not affect the time of bringing suit on any penal act of the General Assembly which hath a time limited therein for bringing the same.

Suits to be bro't within 3 years.

CHAP. 744.

(See 1806, c. 693.)

An act to repeal the sixteenth section or clause of an act of the General Assembly, entitled, "An act for the more uniform and convenient administration of justice within this state," and to direct the manner in which the judges of the superior courts of law and courts of equity shall in future receive their salaries or compensation.

Sixteenth section of recited act repealed.

1. *Be it enacted, &c.* That the sixteenth clause or section of the act of the General Assembly, entitled, "An act for the more uniform and convenient administration of justice within this state," passed in the year one thousand eight hundred and six, be, and the same is hereby repealed and made void.

Judges to obtain certificates from the clerks of superior courts.

2. *Be it further enacted*, That for the year one thousand eight hundred and nine, and thenceforward, the judges of the superior courts of law and courts of equity in this state, for the time being, shall be paid (a) for their services as judges on certificates to be granted or furnished them by the clerks of the several superior courts, under their hands and the seals of their courts respectively; which certificates shall be written on at least one half sheet of paper, and shall pass and be paid at the public treasury, at the rate of forty pounds (b) for each certificate.

(a See 1806, c. 693, s. 5.)

(b See 1818, c. 963, s. 12.)

Former acts repealed.

3. *And be it further enacted*, That all acts and clauses of acts heretofore passed, which come within the pur-

view and meaning of this act, be, and the same are hereby repealed and made void.

CHAP. 745.

An act to amend the twelfth section of an act passed at Raleigh the ninth day of December, one thousand eight hundred and six, entitled "An act for the more uniform and convenient administration of justice within this state." (a)

(a See 1806, c. 693, 1813, c. 853.)

Be it enacted, &c. That no cause, civil or criminal, which is or may be pending in any of the superior courts of this state, shall be removed to the superior court of another county, unless on oath or affirmation made, in which the facts whereon the deponent or affirmant founds his belief that justice cannot be obtained in the county where the suit is pending shall be set forth, so that the judge may decide upon such facts whether the belief is well grounded.

Causes how to be removed in future.

CHAP. 746.

An act to amend an act passed at the last session of the General Assembly, entitled "An act to allow interest on judgments recovered in actions brought on contract, and to mitigate the severity of executions." (b)

(b See 1807, c. 721.)

1. *Be it enacted, &c.* That whenever a suit shall be instituted on a single bond, a covenant for the payment of money, a bill of exchange, a promissory note, or a signed account, and the defendant shall not plead to issue thereon, it shall and may be lawful upon judgment, without a writ of enquiry, for the clerk of the court to ascertain the amount of interest due by law; and the said amount shall be included in the final judgment of the court, as damages, which judgment is to be rendered therein in the manner prescribed by the aforesaid act.

In certain cases interest to be allowed without writ of enquiry.

2. *And be it further enacted,* That in all cases of executions against goods and chattels, and in the case of insolvent debtors (c) applying for discharge, one bed and its necessary furniture, (d) the property of the defendant or insolvent, shall always be deemed and held exempt from seizure, and be exempted like working tools and arms for muster, in the oath to be taken by the insolvent.

Bed & furniture to be allowed in cases of executions and insolvent debtors.

(c See 1773, c. 10, s. 1.)

(d See 1810, c. 797.)

CHAP. 747.

(a See 1809, c. 767.) An act to restrain justices of the peace from holding appointments inconsistent with the nature and duties of their office.(a)

No justice of the peace to be admitted to the bar as an attorney.

Be it enacted, &c. That no court of pleas and quarter sessions in this state shall admit to the bar of such court, as a practising attorney, any person who now holds, or may hereafter hold the office of a justice of the peace in said county, until the person shall first tender to the court a resignation of his said office, to be by the said court transmitted to the competent authority.

When an attorney accepts of the office of a justice, he shall resign his claim to practise as an attorney.

2. *And be it further enacted,* That whenever any practising attorney in a court of pleas and quarter sessions, shall accept of the appointment of a justice of the peace in the county wherein he so practises, he shall, before he is permitted to take the oath of office prescribed for a justice of the peace, cause to be entered on the records of said court a resignation of all claims to practise therein as an attorney, so long as he shall keep the office aforesaid; and that during the time he may keep the said office, he shall not be heard or received as an attorney of said court.

Appointments incompatible with the office of justice of peace.

3. *And be it further enacted,* That the following appointments are declared to be incompatible with the office of a justice of the peace, that is to say—clerk of the court of pleas and quarter sessions, deputy clerk thereof, deputy sheriff, constable and county trustee; and any person who now holds, or may hereafter accept the office of justice of the peace, and who shall accept of any of those appointments in the same county, shall thereby vacate his said office; and any person holding either of these appointments who shall accept the office of justice of the peace in the same county, shall thereby vacate his said appointment; and every person who shall presume to act in any of these offices, contrary to the true intent and meaning of this act, shall forfeit and pay the sum of fifty pounds, to be recovered in any court having cognizance thereof, in the name of the wardens of the poor of such county, and to be applied by them to the use of the poor.

Penalty of 50l. on such persons holding the office of justice of the peace.

CHAP. 748.

An act to enable women in certain cases to maintain actions of slander.

Whereas it is of the first importance in every free and well regulated government, that the laws which secure to individuals the enjoyment of private character should be plainly defined and clearly understood; and as doubts have arisen whether actions of slander can be maintained in this state against persons who may attempt, in a wanton and malicious manner, to destroy the reputation of innocent and unprotected women, whose very existence in society may depend on the unsullied purity of their character,

Be it enacted, &c. That from and after the passing of this act, any words spoken of women which may amount to a charge of incontinency, shall be deemed and held to be actionable, and shall subject the person using them to an action on the case, to be prosecuted by the party aggrieved in any court of record having cognizance thereof, under the same rules and regulations as have been heretofore observed in the trials of actions of slander.

Preamble
What words
spoken of wo-
men shall be ac-
tionable.

CHAP. 749.

An act to amend the several laws now in force relative to the militia.

1. *Be it enacted, &c.* That in addition to the offences already enumerated by law, dishonest or ungentlemanly conduct in an officer shall be punished by cashiering and disabling of ever after holding a military commission in this state.

Dishonest or un-
gentlemanly
conduct in an
officer to be
punished by
cashiering.

2. *Be it further enacted,* That the duplicate returns directed in the seventh section of an act, entitled "An act to revise the militia laws of this state relative to the infantry," (a) to be made by the commandant of regiments to the adjutant-general, shall be made on or before the first day of the meeting of the General Assembly in each year, under the penalty therein affixed.

Duplicate re-
turns of com-
mandants of re-
giments to be
made on or be-
fore the meet-
ing of the Gene-
ral Assembly.

3. *Be it further enacted,* That any company officer of infantry, after being commissioned, may take and sub-

Company offi-
cers may take

the oath in the presence of the colonel.

The commissions of officers declared void, in certain cases.

Regulation for commissions in future.

Parents, &c. liable for fines.

scribe the oaths required in the before recited act, in the presence of the colonel or commanding officer of the regiment to which he belongs, any law to the contrary notwithstanding.

4. *Be it further enacted*, That all commissioned officers of light infantry, grenadiers and riflemen who shall not, within eighteen months from the passing of this act, have enrolled in their companies respectively, forty privates, well armed and equipped, exclusive of non-commissioned officers, their commissions are hereby declared void; and it shall be the duty of the captains of infantry in whose company district they respectively reside, to cause them, as well as their men, to be enrolled in the same manner as though they had never been commissioned; that no person shall hereafter be commissioned in any company of light infantry, grenadiers or riflemen, until they shall have enrolled the number of men aforesaid, well armed and equipped.

5. *Be it further enacted*, That all parents, masters or guardians within this state, shall, and they are hereby declared to be liable for the payment of any fines incurred by those under their care, as well for non-attendance at company musters and general reviews, as for not being armed and equipped as pointed out by the above recited act.

CHAP. 750.

An act to authorise the public treasurer of the state of North-Carolina to employ an agent or agents to collect certain arrears due said state.(a)

(a See 1809, c. 763.)

Whereas it is represented to this General Assembly, that there is a number of the late entry takers, sheriffs, coroners, clerks of the late superior courts, and a number of other persons who have removed themselves beyond the bounds of this state, considerably indebted to the same, therefore

Preamble.

The treasurer to appoint an agent or agents.

1. *Be it enacted, &c.* That it shall be the duty of the public treasurer to empower an agent or agents to collect the aforesaid arrears, who shall give bond with approved security for the faithful performance of his or their duties, in double the sum or sums they may receive for collection, agreeable to the provisions contained in this act.

2. *And be it further enacted*, That the agent or agents employed by virtue of this act, shall not be at liberty to charge the state aforesaid for any costs of suit, travelling or other contingent expenses which may be incurred in endeavouring to effect the collection of the aforesaid arrears, which shall be one of the conditions contained in his or their bond aforesaid.

No charge to be made for costs of suits, travelling, &c.

3. *And be it further enacted*, That the agent or agents employed by virtue of this act, shall have, as a compensation for their trouble and expenses in collecting the same, the one-third part of the sum or sums they or any of them may collect.

Agent to be allowed one-third for collection.

4. *And be it further enacted*, That the agent or agents employed by virtue of this act, shall make his or their report of his or their progress and success in collecting the said arrears, to the treasurer aforesaid, on or before the first day of December in the succeeding year after the same may be received for collection, who shall report the same from time to time to the General Assembly of the state aforesaid.

Agent to make report to the treasurer, who shall report to the General Assembly.

5. *And be it further enacted*, That the agent or agents to whom the treasurer may commit the evidences of the aforesaid arrears, or any part thereof, for collection, he or they shall take and subscribe the following oath or affirmation, to wit: "I, A. B. do solemnly swear (or affirm, as the case may be) that I will use my utmost endeavours to collect the debts due to the state of North-Carolina, which I am authorised this day by the treasurer of the same to collect: I, A. B. do further swear (or affirm, as the case may be) that two-thirds of the sum or sums collected by me as aforesaid, I will pay into the public treasury of the state aforesaid, on or before the first day of December in the year.

Agent to take an oath.

6. *And be it further enacted*, That the public treasurer of the state aforesaid is hereby fully authorised and requested to commit to the charge of the said agent or agents, all debts, dues and demands which the state aforesaid has against any person or persons who reside beyond the limits of the state aforesaid.

Treasurer authorised to commit demands to the agent for collection without the limits of the state.

7. *And be it further enacted*, That if part of the debtors to the state aforesaid should be jointly or severally bound in a bond, or other obligation, with a part who reside in this state, then and in that case it may be lawful for the said agent or agents to proceed either in law

When a part reside in the state, and a part without, the agent may proceed against the whole.

Treasurer authorised to execute power of attorney to the agents.

Agents to commence suit.

or equity, or otherwise, to collect of the part within the state, together with those who reside out of the state.

8. *Be it further enacted*, That the treasurer is hereby fully authorised to execute to the agent or agents aforesaid, powers of attorney, authorising them to collect the said arrears, and upon the receipt of the same, or any part thereof, to give discharges, all which shall be as obligatory as if given to the treasurer himself, any law, usage or custom to the contrary notwithstanding.

9. *And be it further enacted*, That the agent or agents employed in conformity with the provisions of this act, shall be, and are hereby compelled, in case the money cannot be otherwise and speedily collected, to commence suit against all debtors to the treasury of this state, residing without the same, intended to be comprehended by this act.

CHAP. 751.

An act fixing the pay of the council of state.

30s. a day and
30s. for every 30
miles travelling.

Be it enacted, &c. That from and after the passing of this act, every counsellor of state shall receive the sum of thirty shillings per day for every day he may attend on public business, and thirty shillings for every thirty miles travelling to and from the city of Raleigh, on public business as aforesaid, any law to the contrary notwithstanding.

CHAP. 752.

An act respecting sheriffs.

Preamble.

Whereas doubts are entertained whether a sheriff can resign his office with the consent of the court, by whom he has been elected,

(See 1798, c.
313.)

Sheriff may resign to a majority of the justices.

Be it enacted, &c. That it shall and may be lawful for a sheriff to vacate his office by resigning the same to the court of pleas and quarter sessions of his county (a majority of the acting justices being present and accepting of such resignation) and that thereupon the said court may proceed to appoint a proper person as sheriff until the next annual election, under the same

rules, regulations and restrictions as sheriffs are appointed in other cases. (a)

(a See 1779, c. 156; 1815, c. 887.)

CHAP. 753.

An act to compel sheriffs and other officers to give sufficient notice of the time of sale of personal property. (See 1815, c. 887.)

1. *Be it enacted, &c.* That no sheriff, constable or other officer shall sell any goods or chattels by virtue of an execution, until he shall have advertised the same for sale ten days at least, in three public places in his county; one of which public places, if the defendant resides within the same county, shall be within the captain's district in which said defendant resides.

Ten days notice at three public places.

2. *And be it further enacted,* That every sheriff having an execution from any court of record, shall, in addition to the above places, advertise the day of sale at the court-house of his county.

Executions from courts of record to be advertised at the c. house also.

CHAP. 754.

An act to amend an act passed in the year one thousand seven hundred and ninety-five, directing the mode in which sheriffs shall be called to a settlement by the county trustees. (a)

(a See 1795, c. 441, s. 2.)

Whereas considerable doubts have been entertained of the efficacy of the above recited act to produce the desired effect, and whereas many counties in this state have sustained considerable injury in consequence thereof; therefore,

Preamble.

1. *Be it enacted, &c.* That the county trustees shall annually call on the sheriffs of their respective counties, for the payment of all monies that may be in their hands due to the trustees; and if any sheriff shall fail to account for and pay the same, then it shall be the duty of the said trustees, at the first court held for their respective counties after the first day of February in each and every year, to move for judgment against such sheriff failing to settle as above specified, ten days notice being previously given, and the court shall thereupon award immediate execution for the full amount of the tax list furnished said sheriff, or for such part as shall appear to be due; and any sheriff against whom

County trustees to call upon the sheriffs for payment annually.

If any sheriff fail to account, the trustees to move for judgment at the court after the 1st of Feb.

Sheriffs, against whom judgments are obtained, to forfeit 50l.

Penalty in trustees failing in duty.

Sheriffs to be subject to the same rules in their settlement with the wardens of their counties.

Former acts repealed.

judgment is so obtained, shall, over and above his arrearages, forfeit and pay the sum of fifty pounds, to be applied to the use of the county ; and if any trustee shall fail to comply with the requisites of this act, he shall not only be liable for the monies he may then or thereafter have in possession, but shall be subject to the penalty of fifty pounds, to be recovered by suit in any court of record, one-half to the informer, and the other half to the use of the county.

2. *And be it further enacted*, That the sheriffs of each and every county in this state, shall be subject to the same rules, regulations and penalties, in their settlement with the acting wardens of their respective counties, as are prescribed for their settlements with county trustees, any thing to the contrary notwithstanding.

3. *And be it further enacted*, That all laws and clauses of laws coming within the meaning and purview of this act, be and the same are hereby repealed.

CHAP. 755.

An act to authorise the sheriffs in this state to collect the tax for defraying the expense of the public buildings in each county, and to account with the treasurer of public buildings for the same.

Entitled to commissions, &c.

To produce a receipt from the treasurer of public buildings before his election.

Be it enacted, &c. That from and after the passing of this act, every sheriff shall be authorised and empowered to collect the aforesaid tax, and shall be entitled to the same commissions, and subject to the same rules, regulations and restrictions in their settlements with the treasurer of public buildings, as they are in their settlements with county treasurer and county wardens, and shall return a list, upon oath, of all monies by them received on property not contained in the clerk's list, and account for the same, any law to the contrary notwithstanding. And no person shall be re-elected sheriff of any county in this state, who does not at the time of choosing the sheriff for his county, and before the vote shall be taken, produce to the court a receipt from the treasurer of public buildings for said county, in full of said money by him collected, or which ought to have been collected, for the use aforesaid and for which he shall have become accountable,

CHAP. 756.

An act to compel the clerks of the several county courts in this state to account for fines and forfeitures collected and paid into their offices. (See 1801, c. 587, 1809, c. 769.)

Whereas it frequently happens that clerks of the county courts within this state neglect to account for fines and forfeitures paid into their respective offices, which are directed by law to be applied to the use of the counties in which they occur : For remedy whereof,

Preamble.

1. *Be it enacted, &c.* That it shall be the duty of the several clerks of the county courts of this state respectively, to make out and deliver to the county trustee of his county, on oath, a correct statement of all fines and forfeitures which have heretofore been paid into his office for county uses, on or before the first day of the court of pleas and quarter sessions which may be held in his county after the first day of May next, under the penalty of one thousand pounds, a correct copy of which shall be immediately put up in the court-house by the county trustee.

Clerks to deliver to the county trustee a statement of fines.

2. *And be it further enacted,* That it shall be the duty of the clerks aforesaid, to pay over to the county trustee all sums of money heretofore paid into his office, on or before the tenth day of July next; and in case he should fail to do so, it shall be the duty of the county trustee, and he is hereby authorised and required to give said clerk ten days' previous notice in writing : and it shall be the duty of the next court of pleas and quarter sessions, on motion of the attorney for the county, to grant judgment and award execution accordingly against the said clerk.

To pay to the trustee all monies paid into his office by the 10th July.

3. *And be it further enacted,* That it shall be the duty of the clerk aforesaid, on or before the first court of pleas and quarter sessions which shall happen in his county after the first day of January in each and every year hereafter, to account for, and pay over all fines and forfeitures paid into his office, as directed by this act, under the penalty of two hundred and fifty pounds.

To pay over annually by the first court after the 1st of Jan.

4. *And be it further enacted,* That if any clerk should fail to comply with the directions of this act, he shall be considered as guilty of a misdemeanor in office, and, on conviction, be removed from office.

Clerks failing in their duty, to be considered as guilty of a misdemeanor in office.

CHAP. 757.

(a See 1809, c. 769.) An act to compel each county within this state, to support the guarding of its prison and the removing its prisoners to any other county for safe keeping.(a)

Preamble.

Whereas great charges are annually brought forward against the state for guarding the prisoners during their confinement in prison, and for removing them to other counties when the same are insufficient; and whereas it is unjust that those counties which have provided themselves with sufficient prisons should in such cases contribute,

County courts to lay a tax on polls, &c. to pay for guarding prisons, &c.

1. *Be it therefore enacted, &c.* That from and after the passing of this act, the several county courts of pleas and quarter sessions within this state shall annually, at the same court at which the county taxes are laid, lay such farther tax on the polls and the other subjects of taxation, as shall, in the opinion of the court, be sufficient to pay off the expenses to be incurred for the guarding the prison in said county, and of removing persons to other counties, which shall be collected in like manner as other county taxes, and paid to the trustee.

All such claims hereafter to be allowed by the county courts.

2. *And be it further enacted,* That hereafter all claims for guarding of prisons and conveying of persons, shall be allowed by the court of the county in which such prison is situated, or from which any person is removed, and paid off by the county trustee out of the monies levied for such purpose, any law to the contrary notwithstanding.

CHAP. 758.

(a See 1804, c. 652.) An act to amend an act passed in the year one thousand eight hundred and four,(a) entitled "An act to revive and continue in force the acts and clauses of acts heretofore passed, declaring certain entries lapsed, notwithstanding the purchase money may have been paid, in case they are not surveyed and returned into the secretary's office within a limited time."

Time extended for surveys.

(b See 1810, c. 804, 1811, c. 825.)

1. *Be it enacted, &c.* That all bona fide entries of land in this state which have been paid for, as by law directed, shall have until the first day of December, eighteen hundred and ten,(b) for surveys to be made and returned into the secretary's office.

2. *And be it further enacted,* That this act shall be in force from the ratification thereof.

CHAP. 759.

An act to amend the fourth section of an act passed in the year one thousand eight hundred and four, (a) fixing the time for paying purchase money into the treasury on entries of land. (a See 1804, c. 653, s. 4.)

Be it enacted, &c. That the fixed and standing law in future shall be, that all entries of land made in the course of any one year shall, in every event, be paid for on or before the fifteenth day of December, which shall happen in the second year thereafter, instead of the first day of November, as prescribed in the above recited act; and all entries of lands not paid for agreeably to the directions of this act, the same shall become null and void, revert to the state, and may be entered by any other person as unappropriated lands. Lands entered in one year to be paid for the 15th of Dec. in the second year thereafter.

CHAP. 760.

An act directing surveyors to make certain surveys and returns in the time therein required.

Whereas by the second chapter of the acts of Assembly passed in the year one thousand seven hundred and ninety-eight, the purchasers of lands sold for taxes are required, within ninety days (b) after such purchase, to present to the sheriff a fair plat of the land, to be made by the county surveyor or his deputy, from actual survey; and by chapter third of the acts of one thousand eight hundred and five, such purchasers are not permitted to survey the lands so bid off, until one year after such sale, and the surveyor is not obliged by law to make the survey within the time mentioned, by whose neglect or refusal the honest purchaser may lose his land, although the state is fairly paid for the same: Preamble.

Be it enacted, &c. That in all cases of such purchase, the county surveyor, by himself or deputy, shall, within eighteen months from the passing of this act, and within the same time after every similar purchase, proceed to survey and make return, agreeably to said act of one thousand seven hundred and ninety-eight: in failure County surveyor's duty in surveying lands sold for taxes. (b See 1798, c. 492, s. 3, 1800, c. 549, 1805, c. 676.)

Deeds to be
given.

whereof, he shall forfeit and pay the sum of twenty-five pounds, and the purchaser shall have the further time of six months to cause the lands sold for taxes to be surveyed by any other surveyor; and on the plat being returned to the sheriff for the time being, he shall proceed to execute title as if the said survey had been made by the surveyor of the county, which deed shall be good and valid to all intents and purposes as if the same had been made agreeably to the act of one thousand seven hundred and ninety-eight: *Provided nevertheless*, that the county surveyor shall not be liable to the penalty aforesaid, unless the purchaser apply to him to survey such land so sold for the payment of taxes, within two months after he is at liberty to have the survey made: And that nothing herein contained shall be so construed as to diminish or prevent the right of redemption, as provided in the said act of one thousand eight hundred and five.

CHAP. 761.

(a See 1800,
c. 564, 1807,
c. 729, 1809,
c. 779.)

An act to amend an act, entitled "An act to prevent the selling of spirituous liquors, and other articles at church or meeting-house yards, on days of divine worship," passed in the year one thousand eight hundred.(a)

Preamble.

Whereas it has been doubted, whether the said act is sufficient to prevent the said abuses, at other places of divine worship, than those of church or meeting-house yards,

The provisions
of former act
extended.

Be it therefore enacted, &c. That the said act shall extend to, and include all places within half a mile of the same, (licensed taverns excepted,) where persons are assembled for divine worship, and every person offending, by selling spirituous liquors or other articles, or pretending to loan or give the same, shall be subject to the same penalty as if the act was committed at church or meeting-house yards, and in every respect the like proceeding shall be had thereon.

CHAP. 762.

An act allowing further time^(a) for registering grants, proving and registering deeds, mesne conveyances, powers of attorney, bills of sale, and deeds of gift.^(b)

(a See 1806,
c. 705, 1810,
c. 803.)

(b See 1805,
c. 688.)

1. *Be it enacted, &c.* That all grants for lands in this state, all deeds, mesne conveyances, powers of attorney, under which any lands, tenements or hereditaments, have been, or may be conveyed, bills of sale, deeds of gift, already proved, as deeds of conveyance are required to be proven, or which may hereafter be proved, shall and may, within two years after the passing of this act be admitted to registration, under the same rules and restrictions as heretofore appointed by law; and said grants, deeds, mesne conveyances, powers of attorney, bills of sale, and deeds of gift, shall be as good and valid as if they had been proved and registered within the time heretofore allowed, any law, usage or custom to the contrary notwithstanding.

Time of registering extended.

2. *And be it further enacted,* That whenever a deed, for the conveyance of lands within this state, has been or may be executed, in any part or place, without the state, and the subscribing witness or witnesses, are also without the state, that then and in that case, it shall and may be lawful, for the court of pleas and quarter sessions, of the county in which such lands lie, to direct a dedimus to two or more commissioners in the state, where the subscribing witness or witnesses reside, empowering them, or either of them, to take the acknowledgment or probate of such deed, and to return the same with a certificate of such probate, or acknowledgment, to the said court, whereon such dedimus and certificate of probate or acknowledgment, and the deed itself, shall be admitted to registration, which registration, shall be good and effectual to all intents and purposes; and all deeds, as aforesaid, which may have been, before the passing of this act, thus proven, or acknowledged and registered, shall be held and deemed to have been effectually proven or acknowledged, and the registration thereof, be valid and complete to every intent and purpose.

Course to be taken where a deed is executed without the state.

(See 1715, c. 7,
s. 3.)

Read three times and ratified in General Assembly, }
the 23d day of December, 1808. }

JOSEPH RIDDICK, S. S.,
WILL. GASTON, S. H. C:

Copy.—WILL. WHITE, Secretary.

David Stone,
Esq. governor.

At a General Assembly, begun and held at Raleigh, on the twentieth day of November, in the year of our Lord one thousand eight hundred and nine, and in the thirty-fourth year of the independence of said state.

CHAP. 763.

An act in aid of the University of North-Carolina.

Preamble.

(See 1808, c.
750.)

Trustees empowered to recover certain balances in the hands of executors or administrators.

Whereas this state possesses certain funds from which no profit is yielded, but which, by the zeal, activity and united exertions of the trustees of the university of North-Carolina, might be rendered productive; and whereas, in the present embarrassed state of the institution, it is the bounden duty of the Legislature to afford to it such assistance as the nature of the public finances will justify :

1. *Be it therefore enacted*, That the trustees of the university of North-Carolina be authorised and empowered to demand, sue for, recover and collect, from any executor or administrator of a deceased person, or the representatives of such executor or administrator, all sums of money, or other estate of whatever kind, that may be in the hands of such executor or administrator, that has remained or shall remain for seven years, after such executor's or administrator's qualifications, unrecovered by the creditors, legatees or next of kin of the testators or intestate, and the same to hold without liability for profits or interest, until a just claim therefor shall be preferred; and if no such claim therefor be preferred within ten years thereafter, then the same to hold absolutely for the benefit of the university.

And all debts due to the state before Dec. 31, 1799.

2. *And be it further enacted*, That all debts, dues and demands, which have accrued to this state, and all such balances as have been owing to this state, or to any public officer for the benefit thereof, on or before the thirty-first day of December, one thousand seven hundred and ninety-nine, be, and the same are hereby transferred and assigned unto the trustees of the university of North-Carolina, who are authorised to demand and receive from the officers of this state, the documents and evidences by which the same are substantiated.

How the trustees shall bring suit.
(See 1784, c. 205, s. 3.)

3. *And be it further enacted*, That to enable the said trustees to carry into full effect the provisions of this act, they are hereby authorised to bring any and every suit, either in law or equity, which may be proper and

requisite to effect the premises, either in their own name or in the name of the state, or the proper officer thereof; and shall also have the same remedies, in every respect, as might have been had by the state, or the proper officer thereof, previously to this act; and that all laws and clauses of laws, which come within the meaning and purview of this act, be, and the same are hereby repealed and made void.

CHAP. 764.

An act to authorise and empower the judges of the superior courts of law and equity to appoint solicitors, in the recess of the legislature.

Be it enacted, &c. That whenever any vacancy shall hereafter happen, either by the death, removal or resignation of any of the solicitors of this state, in the recess of the legislature, it shall be the duty of the judge, who is next to ride the circuit wherein such vacancy has happened, to appoint a solicitor pro tempore; who shall have all the powers and authorities, receive the same salary, and be subject to perform the same duties as his predecessor, and be deemed to be in office until the end of the legislature which shall first happen subsequent to his appointment.

Judges to appoint solicitors pro tem.

CHAP. 765.

An act to amend and explain an act passed last General Assembly, entitled "An act to give concurrent jurisdiction to the superior and county courts." (a)

(a See 1808, c. 741.)

Be it enacted, &c. That nothing contained in the before recited act shall be construed so as to extend the jurisdiction of the county courts of pleas and quarter sessions, as heretofore used and practised, before the passing of said act; any thing therein contained to the contrary notwithstanding: And that all appeals from the judgment of a justice shall be made, as formerly, to the county courts.

County court jurisdiction not to be extended.

CHAP. 766.

An act to amend the third section of an act passed in the year one thousand eight hundred and eight, entitled "An act to amend an act passed at the last session of the General Assembly, entitled An act to allow interest on judgments recovered in actions brought on contract, and to mitigate the severity of executions."

No person to take the insolvent debtor's oath unless confined in prison. (a See 1773, c. 100.)

(b See 1808, c. 746, s. 3.)

1. *Be it enacted, &c.* That any person or persons, who may hereafter be imprisoned for debt, shall not be permitted to take the oath of insolvent debtors, unless he shall continue within the walls of said prison for the space of twenty days.(a)

2. *And be it further enacted,* That the third section of the above recited act be, and the same is hereby repealed and made void.(b)

CHAP. 767.

An act to amend an act passed at the last session of the General Assembly, entitled "An act to restrain justices of the peace from holding appointments inconsistent with the nature and duties of their office."(c)

(c See 1808, c. 747.)

No jailer to be a justice of the peace.

Be it enacted, &c. That in addition to the appointments declared, in the above recited act, to be incompatible with the office of justice of the peace, the appointment of jailer shall hereafter be considered incompatible with the said office, and shall not be held or accepted by any justice of the peace, under the penalty of fifty pounds, to be recovered and applied in the manner prescribed in the above recited act.

CHAP. 768.

An act requiring the attorney-general of this state to attend the supreme court.

Attorney-general to attend to state business in the supreme court.

Be it enacted, &c. That it is hereby required of the attorney-general to attend all the business which is now pending, or which may hereafter be carried up to the supreme court of this state for adjudication, wherein this state may be concerned, or in any manner have any interest therein; and for which services the attorney-general shall receive, as a compensation, the sum

of twenty pounds for each court that he may so attend, to be paid by the treasurer of the state, upon a certificate being produced to him, from the clerk of the supreme court, to that effect.

Compensation altered by 1818. c. 973.

CHAP. 769.

An act granting to the several counties in this state all fines, forfeitures, amercements and tax fees, for the purpose of paying the expense of state prosecutions and contingent charges of the counties.

(See 1784, c. 220, 1806, c. 698, 1808, c. 756 and 757, 1810, c. 799.) All fines, &c. shall go to the county trustees for defraying the costs of state prosecutions, &c.

1. *Be it enacted, &c.* That from and after the passage of this act, all fines, forfeitures, amercements and tax fees, on suits and attorneys' licenses, as well in the superior as county courts, shall be accounted for and paid to the county trustees, for the purpose of defraying the costs of state prosecutions and the contingent expense of the county.

2. *And be it further enacted;* That the several counties in this state shall pay the costs and charges of state prosecutions, when by law the state is now liable to pay them; and, in future, the state shall not be chargeable with any costs in criminal prosecutions.

The several counties to pay the costs of state prosecutions.

3. *And be it further enacted,* That all claims for costs and charges, arising hereafter out of criminal prosecutions, shall be authenticated in the same manner as is now by law required, (a) and when so authenticated, shall be paid by the trustees of the respective counties in which they may be due.

How claims for costs shall be authenticated and paid. (a See 1797, c. 484.)

4. *And be it further enacted,* That the clerks of the superior courts shall make a return, at the first court which shall happen after the first day of January in each year, of all tax fees, forfeitures, fines and amercements by them received, on oath, in open court, which shall contain, as well the names of all persons who shall have paid fees, as of all those who have, in the preceding year, been fined, amerced or judged to have forfeited their recognizance, and from whom the monies have been collected, either in whole or in part; stating the precise sum required from each, which sum, when made out, sworn to and subscribed, shall be transmitted to the trustee of the county of which he is clerk, within ten days after the rise of the court, under the penalty of five hundred pounds, to be recovered in the

Clerks to make a return of fines, &c. on oath.

And the amount to be transmitted to the county trustee.

Clerk to deliver to the county trustee a list of all persons fined, &c.

name of the county trustee, for the use of the county; and he shall also, under like penalty, within the period aforesaid, deliver to the county trustee a complete list or return of the names of all persons fined, amerced or adjudged to have forfeited their recognizance, during the preceding year, and the particular sums which they have been fined, amerced or adjudged to have forfeited, as well those who have paid in full or in part, agreeably to the return before required, as those who have not paid any thing; which list or return shall be made out and presented to the court at the same time with the return above mentioned, and shall be sworn to and subscribed in like manner, and shall be kept by the trustee, as a check on the return which may thereafter be made.

On the 1st of Jan. annually, the clerks to pay the money in their hands to the county trustee.

5. *And be it further enacted*, That the said clerks shall, on the first day of January in each year, pay to the county trustees, the money which they may receive or owe, in virtue of this act; and if any clerk shall fail or neglect to comply with this requisition, it shall be the duty of the county trustee to enter up judgment at the next court for his county, *instantly*, against such clerk and his securities, or against the clerk alone, as he may see proper, first giving ten days previous notice.

Former acts repealed.

6. *And be it further enacted*, That all laws, which come within the meaning of this act, are hereby repealed.

CHAP. 770.

(a See 1816, c. 900.) An act to prevent the circulation of small promissory notes or due-bills. (a)

Preamble.

Whereas the circulation of promissory notes, or due-bills, by individuals for small sums, has become so general in some parts of the state, as to be very inconvenient and injurious to travellers and others:

Penalty on issuing due-bills in future.

1. *Be it enacted, &c.* That any person or persons, or body corporate, who shall, in future, make or issue any promissory notes, commonly called due-bills, for a less sum than ten shillings, intended to pass current, as a representative of, or a substitute for money, shall be liable to an action, in the name of the bearer, for rece-

very thereof, in any of the county or superior courts in this state, which courts shall have cognizance and jurisdiction of the same, and who may render judgment against such person or corporation, to maintain which action it shall not be necessary for the plaintiff to prove that such note or due-bill was ever presented, or payment demanded, any words in the said note or due-bill to the contrary notwithstanding.

2. *And be it further enacted*, That from and after the first day of May next, no person shall offer, in payment of any debt, or in exchange of any money or other thing, any such note or due-bill, which is already issued, or may hereafter issue, unless to the person or corporation having issued the same, under the penalty of five pounds for each offence, to be recovered before any justice of the peace, to the use of the person suing for the same: *Provided*, that nothing in this act shall affect the bills or notes already issued for the benefit of any seminary of learning.

Penalty for offering due-bills after the 1st of May.

An exception.

3. *And be it further enacted*, That the statute of limitation shall not run, nor be pleaded in bar of the recovery of such note or due-bill already issued as aforesaid, or which may be issued.

Statute of limitation not to be plead.

CHAP. 771.

An act to prevent frauds committed against the state, and to make subsequent entries on lands valid in certain cases.

Be it enacted, &c. That whenever any entry of land shall hereafter be made in any entry-taker's office in this state, and the enterer shall fail to pay the purchase money for the same, within the time limited by law, it shall and may be lawful for any person, who may have made a subsequent entry for the said land, to pay the purchase money into the treasury and have a grant perfected, in the same manner as the original enterer would have done, had he not failed to pay the same; any law to the contrary notwithstanding.

The first enterer failing to pay, a subsequent enterer may pay the purchase money and have the grant.

CHAP. 772.

(a See 1807, c. 736.) An act to amend an act passed in the year 1807, entitled "An act to annex part of the county of Burke to the county of Rutherford." (a)

The line between the counties of Burke and Rutherford.

1. *Be it enacted, &c.* That a line shall extend from the White Oak mentioned in the above recited act, on the old east and west line, to a stake; thence crossing Little Rock Creek, to the south side of the tract whereon Widow Smith lives; thence crossing Big Rock creek, to the north side of Moses Black's buildings; thence to a place called the Dye-Stone; thence to the north side of Levi Trout's buildings; thence between the plantations of Perminster Morgan and Henry Carter, to the south side of the tract of William Morris, senior; thence with a spur of the mountain, to the dividing ridge between Crooked creek and Montford's Cove creek, to the Hickory Nut Mountain; thence along the ridge to the Round Mountain; thence due west to the Buncombe line; and all that part lying northwardly of said line, be, and the same is hereby declared to be in the county of Burke, and the part southwardly thereof shall continue, as heretofore, within the county of Rutherford, any law to the contrary notwithstanding.

County court of either county may order the surveyors to run and mark the said line.

2. *And be it further enacted,* That when it may be deemed expedient to have any part of the line above described run and marked, the county court of either county may order the surveyors of both counties to run and mark the same; which order it shall be the duty of the said surveyors to obey; for which they shall be paid by their own counties respectively, by order of the county court.

Former acts repealed.

3. *And be it further enacted,* That all acts and clauses of acts, coming within the meaning and purview of this act, be, and the same is declared repealed and made void.

CHAP. 773.

An act directing how persons injured by erection of public mills shall in future proceed to recover damages.

Persons aggrieved shall apply by petition to the county court.

1. *Be it enacted, &c.* That in future any person or persons who may conceive him, her, or themselves injured by the erection of any public mill now built, or which shall be hereafter built, and be desirous of recov-

ering damages from the owner or proprietor of such mill, shall apply by petition to the court of pleas and quarter sessions of the county in which the land to which damage is done is situate, setting forth in such petition, in what respect he, she, or they is or are injured by the erection of said mill, having first given the owner or owners of said mill ten days previous notice of such application to said court; and it shall be the duty of the court, on such application, to order a writ to be issued to the sheriff of their county, commanding him to summon a jury of freeholders, (a) unconnected with the parties by consanguinity or affinity, and entirely disinterested, no one of whom shall be the owner or part owner of any public mill, to meet on the premises on a certain day, of which he shall give each party five days previous notice; and it shall be the duty of the jury summoned to appear on the day and at the place appointed, after having taken an oath (which the sheriff or his deputy is hereby authorised to administer) that they will well and truly enquire whether any damage hath been sustained by the petitioner by reason of the erection of the mill complained of, and if, in their opinion, any hath been sustained, that they will, impartially, according to the best of their judgment and ability, assess the amount which said petitioner ought annually to receive from the owner or proprietor of said mill on account thereof—they shall proceed to view and examine the premises, and to hear all the evidence which may be produced on both sides, they shall retire to themselves and make up their verdict, as to the sum which the petitioner is entitled to receive as an annual compensation for the damage he sustains by reason of the erection of the mill complained of, reduce the same to writing, sign their names thereto, and deliver to the sheriff, sealed up, to be delivered to the court from whence the writ issued, at the next ensuing term; which verdict shall be binding between the parties for the term of five years, unless the damages should be increased by raising the water or otherwise, if said mills are kept up, from the filing of the petition, unless appealed from by either of them.

A jury to be summoned to assess the damages to be paid annually.

(a See 1813, c. 863, s. 3.)

Their verdict to be binding for 5 years, unless the damages be increased.

2. *And be it further enacted*, That if the verdict of the jury shall be, that the petitioner hath sustained no damage, then he shall pay all the costs of his petition, and execution shall be issued therefor by the clerk of the court; but if in favor of the petitioner, shall be issued

If the petitioner received no damage, he shall pay cost.

If defendant fail
to pay the dama-
ges assessed,
the remedy.

by the clerk against the defendant or defendants, for the amount of one year's damage preceding the filing of the petition, and for all costs; and if the defendant do not annually pay up the petitioner, his heirs or assigns, before it shall fall due, the sum assessed by said verdict, as the damage to be paid annually, such petitioner, his heirs or assigns, shall be at liberty, annually, during the five years, to apply to the clerk for an execution against him, at the same term that the petition was filed, in each and every year, for the amount of the last year's damage, or any part thereof which may remain unpaid.

Sheriff and ju-
rors' pay.

3. *And be it further enacted*, That the sheriff, for summoning each juror or witness, shall be entitled to two shillings, that each juror shall be entitled to the sum of eight shillings per day for attending on the premises, and four pence per mile for every mile they shall travel to and from the place of trial, an account of which they shall render on oath to the sheriff after making up their verdict, to be returned therewith to the court, and the clerk shall receive the same fees as in other cases of petitions where no copy is issued.

Appeals still to
be allowed.

^a See 1813, c.
53, s. 2.)

4. *And be it further enacted*, That nothing in this act contained shall be construed to prevent either party from appealing^(a) from the judgment of the court on the verdict returned as aforesaid, on giving bond and security, as in other cases of appeals; but if the plaintiff shall appeal and fail to recover higher damages in the superior court than were awarded by the jury on the premises, he shall pay all the costs of his appeal.

If the yearly da-
mage be 10l.
the injured may
sue as hereto-
fore.

5. *And be it further enacted*, That in all cases where the jury shall assess the yearly damage as high as the sum of ten pounds, nothing contained in this act shall be so construed as to prevent the person thus injured, their heirs or assigns, from suing, as has heretofore been usual in such cases; and in such cases, the verdict and judgment of the jury on the premises, shall only be binding for the year's damage preceding the filing of the petition.

Former acts re-
pealed.

6. *And be it further enacted*, That all laws and clauses of laws coming within the meaning and purview of this act, are hereby repealed and made void.

CHAP. 774.

An act to prevent speculations in obtaining lands which may hereafter accrue to this state, by purchase from the Indians.

Whereas, from the several acts of Assembly establishing a boundary between this state and the Cherokee Indians, ^(a) and the several treaties between the said Indians and the United States, and the several lines run pursuant thereto, it is rendered doubtful where the present boundary extends, and whether the penalties for entering or surveying lands beyond the same, are in full force: And whereas speculators, regardless of the friendship and good faith which ought to be supported with the said Indians, are making entries on their lands; and it is suspected a great speculation is on foot to appropriate most of the valuable lands of the said Indians which lie within this state, so soon as their title shall have been extinguished by treaty, and thereby deprive the honest citizens, who regard the laws of their country, from appropriating lands when permitted by law, without much litigation and expense:

Preamble.

(a See 1783, c. 185, s. 5.)

1. *Be it therefore enacted, &c.* That the land lying west of the line run by Meigs and Freeman, within the bounds of this state, shall not be subject to be entered under the entry laws of this state; but that the same, when the Indian title shall be extinct, shall remain and enure to the sole use and benefit of the state; any law to the contrary notwithstanding. ^(b)

Certain lands not to be subject to entry, but to enure to the state.

(b See 1817, c. 950.)

2. *And be it further enacted,* That all entries made, or grants obtained, or which may hereafter be made or obtained, shall be null and void.

Entries or grants of this land to be void.

CHAP. 775.

An act to recognize the currency of the United States.

Be it enacted, &c. That hereafter, the currency of the United States shall be recognized as the lawful currency of this state: And it shall and may be lawful for the records, and all other papers and proceedings in this state, to be kept in dollars and cents: *Provided*, that nothing herein expressed, shall operate to prevent any records, papers or proceedings, from being kept in the former currency of this state.

Currency of the U. States recognized.

CHAP. 776.

An act to continue in force the acts heretofore passed, ceding to the United States of America certain lands in Smithville:

Whereas the time limited in the aforesaid acts for erecting fortifications in Smithville has expired,

A certain piece of land ceded to the U. States.

1. *Be it enacted, &c.* That the ground left out of the plan of Smithville by the commissioners, for the use of a fort and the erection of fortifications, agreeably to the act establishing said town, be, and the same is hereby ceded to the United States of America, with the exclusive jurisdiction thereof: *Provided*, that so much of the said ground as the commanding officer stationed by the United States at Smithville shall deem necessary to be kept free from intrusion, shall be enclosed within six months, and the fort and works deemed by the national government necessary and proper, be completed within seven years, from the 31st of December, 1809, and from thence be afterwards kept in such repair and order for the public defence, as to answer the purpose for which it was ceded: *And provided always*, that on failure of the national government to keep the said fort and works in such order and repair for two years, the said ground shall revert to this state.

State officers to be allowed to serve process, &c.

2. *And be it further enacted*, That nothing herein contained shall be construed so as to prevent any officer of this state from serving process or levying executions and carrying them into full effect, agreeably to the laws of this state, within the limits hereby ceded, in the same manner as though this cession had never been made.

CHAP. 777.

(a See 1790, c. 327, s. 3.) An act to amend the third clause of the sixteenth chapter of the acts of the Assembly of 1790.(a)

Preamble.

Whereas it is provided by the clause above mentioned, that the justices of the peace of this state, who shall be in court or on the bench at the time of the qualification of their sheriffs, clerks, entry-takers and registers, and shall fail to take bonds of such their officers as is required by law, shall, in their own proper persons and estates, be held and deemed the securities of such officers, and be considered bound as though they had actu-

ally signed bonds with them : And whereas it hath so happened that sheriffs and others, being elected by the court, have been permitted to take on themselves the discharge of the duties of their appointments respectively, without either qualifying or giving bond, to the detriment of the revenue of the state and to the injury of the inhabitants of their respective counties and others : For remedy whereof,

1. *Be it enacted, &c.* That should it at any time hereafter so happen, that any of the officers above named shall be permitted to officiate as such, and to discharge any of the duties of their respective appointments, without having first qualified and given bond with security for the due and faithful performance of them as is required by law, the justices of the peace who sat on the bench or were in court at the time of the appointment of the officer or officers so officiating and acting as aforesaid in virtue and under colour of his appointment, but without qualifying or giving bond, shall be considered bound to all intents and purposes, and they and every of them are hereby declared to be bound as the securities of the sheriff or other officer or officers thus acting and availing himself of such his appointment without having first given bond for the faithful performance of his duty in office, in the same degree, and in the same manner, as though they had been formally bound by entering into and executing bonds with and as the securities of such officers ; and they shall and may be proceeded against as is already provided by the act first above referred to.

Justices, to be answerable where sheriffs, &c. officiate without qualifying, &c.

2. *And be it further enacted,* That all laws and clauses of laws which come within the purview and meaning of this act, be, and the same are hereby repealed and made void.

Former laws repealed.

CHAP. 778.

An act to amend an act, passed in 1796, entitled “ An act to secure property to religious societies or congregations, of every denomination.” (a)

(a See 1796, c. 457, s. 2.)

Be it enacted, &c. That the trustees now acting, or who may hereafter act, under the authority of a law, passed in 1796, entitled “ An act to secure property to

Trustees may sue and be sued.

religious societies or congregations, of every denomination," shall be enabled to sue and be sued, plead and be impleaded, in any court of record whatever, in all cases of tort or contract, of and concerning the property, either real or personal, about which they are trustees; also, in all matters of contract which may be cognizable before a justice of the peace, for the purposes aforesaid.

CHAP. 779.

An act to protect the decency of divine worship.(a)

(a See 1800, c. 564, 1807, c. 729, 1808, c. 761.)

Penalty on stud-horses, &c. being brought to places of public worship.

1. *Be it enacted, &c.* That in future, no person within this state shall bring to any place where a congregation are assembled for divine worship, or within three hundred yards thereof, any stud-horse or jack-ass which may be liable to the payment of taxes, under the penalty of three pounds, to be recovered by way of a warrant, in the name of the state, before any justice of the peace in the county in which such offence may be committed, to be applied to the use of the poor in said county. *Provided nevertheless*, that nothing herein contained shall be so construed as to prevent any person or persons from removing his or their stud-horse or stud-horses from one stand to another, so that he or they do not stop his or their stud-horse or stud-horses within three hundred yards of the aforesaid place of divine worship.

Penalty for selling spirituous liquors at any place of worship.

2. *And be it further enacted*, That all persons who shall hereafter be convicted of selling spirituous liquors, or articles of merchandize, within one mile (licensed taverns and stores excepted) of any place, on any day of divine worship, shall be subject to the above penalty, to be recovered and applied in manner and form aforesaid.

Right of appeal.

3. *And be it further enacted*, That nothing herein contained shall prevent the right of appeal on the part of the state, or of the person or persons prosecuted, to the court of pleas and quarter sessions of the county in which the aforesaid offence or offences may be committed.

Appeals to be entered on state docket.

4. *And be it further enacted*, That it shall be the duty of the clerk of said court to enter the said appeal on the state docket, and of the prosecuting officer of the county to prosecute the same to effect; and that they shall be entitled to the same fees as are now allowed by law in

state prosecutions ; any law, usage or custom to the contrary notwithstanding.

CHAP. 780.

An act to annex part of Bladen to the county of Columbus.

1. *Be it enacted, &c.* That from and after the passing of this act, the boundary line between the counties of Bladen and Columbus, shall begin in the Brunswick line, two miles to the east of the Waggamaw Lake, and run thence a direct line to Slade Swamp, so as to include Henry Swindle's plantation, thence down Slade Swamp to the Brown Marsh Swamp, thence down the same to the Western Prong, thence up the same to the mouth of Green's Mill Branch, then up the said branch to the head, and then a direct line to the mouth of the Horse-Pen Branch at the Big Swamp, thence down the Big Swamp and Drowning Creek to the Columbus line. And the boundary as herein mentioned and described, shall be the dividing line between the said counties of Bladen and Columbus.

The boundary line between Bladen and Columbus.

2. *And be it further enacted,* That Isaac Powell and John Wingate, of Columbus county, and Michael Clariday and David Loyd, of Bladen county, are hereby appointed commissioners to extend and mark the line as heretofore described. And the said commissioners may employ two surveyors for the purpose of running and ascertaining said line, who shall be paid a reasonable price for their several services, to be allowed by their respective county courts, when the work is done.

Commissioners for extending the line.

3. *And be it further enacted,* That should either of the commissioners die, refuse to act, or remove, then and in that case, the county court of the commissioner or commissioners who may die, refuse to act, or remove, may appoint their commissioners in their stead, who are hereby invested with the same powers as those by this act appointed.

Mode of supplying vacancies.

4. *And be it further enacted,* That all the justices of the peace living within the bounds as hereby annexed to the county of Columbus, shall exercise the same authorities as they have heretofore done in the county of Bladen, any law to the contrary notwithstanding.

Justices in Columbus to continue in office.

CHAP. 781.

(a See 1817, c. 961.)

An act to annex Smith's Island, at the mouth of Cape-Fear River, to Brunswick county, and part of Eagle's Island to the county of New-Hanover.(a)

Smith's Island added to Brunswick.

And part of Eagle's Island to New-Hanover.

Commissioners for running the lines.

1. *Be it enacted, &c.* That the said Smith's Island be, and the same is hereby taken from the county of New-Hanover, and added to the county of Brunswick, any law, usage or custom to the contrary notwithstanding.

2. *And be it further enacted,* That all that part of Eagle's Island, on the east side thereof, as conveyed and described in deeds recorded in the register's office of New-Hanover county, from John Watson to Michael Higgins and Caleb Grainger, including the ground up to the thoroughfare as mentioned therein, running down to the entrance thereof into the North-East River, and down the same to the beginning, described in said deed to Higgins, or so far as the wharves, for the purpose of carrying on commerce, opposite the town of Wilmington, now are, or hereafter may be erected, and running back with the lines designated in said deeds from Watson to Higgins and Grainger, being fourteen hundred and eighty-five feet, or thereabouts, back from the river, shall be, and the same is hereby taken from the county of Brunswick, and annexed to the county of New-Hanover.

3. *And be it further enacted,* That Benjamin Smith, Samuel Hall and Jacob Leonard, of Brunswick county, and Hinton James, Hanson Kelly and James W. Walker, of New-Hanover county, be, and they are hereby appointed commissioners to superintend the running said division lines between the two counties, which they are hereby authorised and required to do in manner herein mentioned, and to have the same plainly marked, within twelve months from the passage of this act. And for the complete accomplishment of the same, they are empowered to employ one surveyor, one chain-carrier, and one marker, on behalf of each county, and to allow them a reasonable compensation for their trouble, which shall be paid equally out of the taxes of the respective counties by the sheriffs thereof, on the certificates of the said commissioners; the acts or doings of a majority of whom shall be good and sufficient in the premises.

CHAP. 782.

An act to amend and enforce the laws heretofore passed on the subject of improving the navigation of the different rivers, creeks and streams in this state, in certain cases. (See 1784, c. 227, 1785, c. 242.)

Whereas it has been represented to this General Assembly, that the several laws heretofore passed on the subject of improving the navigation of the different rivers and streams in this state, where the execution of them depends upon the county courts, have been, in many instances, rendered ineffectual, by the omission of the courts to exercise the authority vested in them: For remedy whereof,

1. *Be it enacted, &c.* That in future, it shall be the duty of the county solicitor for each and every county, through any part, or on the borders of which any stream may pass, to inform himself of the laws, whether private or public, made for the improving the navigation of such stream or streams; and where the power of carrying said laws into effect is vested in the county courts, to apply to the court of which he is solicitor, at the first term thereof which shall be held for the annual election of sheriff, to make the necessary orders and appointments for effecting the object of such law or laws. And if such court shall fail or refuse to make such orders and appointments, it shall be the duty of such solicitor to make a record upon the state docket of his application, and appeal thereon to the next superior court of law to be held for such county, when it shall be the duty of the solicitor of the superior court, or person acting as such, to apply to the judge of the superior court, to make such orders and appointments as may be necessary for carrying such laws into effect. And to enable the judge to obtain such information as he may need to govern him in making such orders and appointments, he is hereby empowered to call upon the clerk, sheriff, grand jurors, petit jurors, or any other persons who may be attending the court, for any information which it may be in their power to give, touching the subject; and to make all such orders and appointments as by the laws the county court may be empowered to make; which orders, when made, shall be, in all respects, as obligatory as though they had been made by the county court.

Preamble.

County solicitors to see that the laws for improving navigation be carried into effect.

If the county court fail or refuse to act, the superior court to be appealed to.

Solicitors' fees.

2. *And be it further enacted*, That the county and superior court solicitors, shall respectively be entitled to the same fees for any application either of them may make under this law, as they are now allowed for prosecuting any indictments in said courts; to be paid out of the monies collected for county uses in the county where such application is made.

Duty of the
clerk of the
court.

3. *And be it further enacted*, That it shall be the duty of the clerk of the court in which any order for the appointment of overseers, or allotment of hands shall be made, for the purpose of working on any stream, within ten days after the close of the court at which such orders were made, to issue to the overseer so appointed his orders, expressing therein the name of the stream, the distance he is to work thereon, and the hands appointed to work under him, and deliver the same to the sheriff, whose duty it is hereby declared to be to deliver them to the overseer in ten days after he shall receive them from the clerk.

CHAP. 783.

An act to amend the first section of an act passed at Fayetteville, in the year one thousand seven hundred and ninety, entitled "An act to restrain all married persons from marrying again whilst their former wives or former husbands are living." (a)

(a See 1790, c. 323.)

Offenders to be
adjudged felons

Be it enacted, &c. That if any person now married, or who hereafter shall be married, doth take to him or herself another husband or wife, while his or her former wife or husband is still living, every such offender shall be adjudged a felon, without benefit of clergy, and shall suffer death.

CHAP. 784.

An act to revive and continue in force, an act passed at Raleigh, in the year 1795, entitled "An act giving further time for the probate and registration of certain deeds issued from Lord Granville's office." (b)

(b See 1795, c. 438, 1804, c. 671, 1813, c. 860.)

Preamble

Whereas many of the good people of this state have not availed themselves of the provisions of the said act; and whereas it would be but just and right that the per-

sons holding land under such deeds should have the privilege of perpetuating the same :

Be it enacted, &c. That from and after the passing of this act, the said recited act shall be and continue in full force and operation for two years hereafter, any thing in the law to the contrary notwithstanding.

Read three times and ratified in General Assembly, }
the 21st day of December, 1809. }

JOSEPH RIDDICK, S. S.

THOMAS DAVIS, S. H. C.

Copy.—WILL. WHITE, Secretary.

At a General Assembly, begun and held at the city of Raleigh, on Benj. Smith,
Monday the nineteenth day of November, in the year of our Lord Esq. governor.
one thousand eight hundred and ten, and in the thirty-fifth year of
the independence of this state.

CHAP. 785.

An act to regulate the supreme court.(a)

1. *Be it enacted, &c.* That in future, the supreme court shall be held on the first Monday in January and July, in each and every year. Supreme court to be held twice a year.

2. *And be it further enacted,* That the judges, at the first meeting of the supreme court after the ratification of this act, are authorised, empowered, and hereby required to choose one of their body to preside in the said court, who shall be styled chief justice, and hold his office during good behaviour. A chief justice to be chosen.

3. *And be it further enacted,* That it shall be the duty of the said judges to deliver their opinions or judgments, with the reasons at full length on which they are founded.(b) And the said judges shall receive a compensation for the extra duty enjoined on them by the provisions of this act, the sum of fifty pounds; to be paid by the public treasurer, under the same rules, regulations and restrictions as are prescribed in the payment of the judges at this time. Judges to deliver their opinions at length.

(a See 1799, c. 520, 1801, c. 576, 1804, c. 660, 1805, c. 674, 1806, c. 693, 1808, c. 742, 1811, c. 808, 1812, c. 829, 1813, c. 851.)

(b See 1811, c. 808, 1818, c. 962 and 963.)

Attorney-general to attend this court.

4. *And be it further enacted*, That it shall be the duty of the attorney-general to attend on the said court at their several sittings, for the purpose of managing the business on the part of the state, and that he shall receive the sum of twenty pounds for the additional duty required of him by the provisions of this act; to be paid by the public treasurer, under the same rules, regulations and restrictions as heretofore prescribed by law.

Governor to procure a seal.

5. *And be it further enacted*, That the governor, as soon as convenient, shall procure a seal for the supreme court, with suitable devices and motto thereon.

Sheriff of Wake to attend this court.

6. *And be it further enacted*, That it shall be the duty of the sheriff of Wake county, by himself or his deputy, regularly to attend the supreme court, and shall be paid for the same by the county court of Wake.

Causes how to be removed to this court.

7. *And be it further enacted*, That any party to any suit now depending, or hereafter may be commenced, in any of the superior courts, who may desire to remove any legal question in his cause, after the same shall be decided in said superior court, shall have a right to carry the same to the supreme court, upon such party entering into bond with approved security, in the same manner, and under the same rules, regulations and restrictions, as are now required from persons appealing from a decision of the county court to the superior court of law. And the supreme court shall adjudge costs to be paid by the party cast, and execution shall and may issue from the said court for the same, in like manner as they are issued from the superior courts.

CHAP. 786.

An act to authorise any judge of the superior court, or any two justices of the peace, on satisfactory evidence adduced, to commit to any jail within this state, any fugitive who has committed any offence in any other state, for the space of six months, unless sooner demanded by said state, agreeably to the directions of an act of Congress in such case made and provided. /

(a See act Congress, vol. 2, p. 331, N. Ed. L. U. S.)
(See Con. U. S. art. 4, sec. 2.)

Whereas, agreeably to the present mode pointed out by the act of Congress(a) for demanding fugitives from other states, the ends of justice may be often defeated: For remedy whereof,

1. *Be it enacted, &c.* That from and after the first day of January next, any judge of the superior court of

law and equity, or any two justices of the peace, on satisfactory evidence adduced, that any fugitive has committed within the United States any petty larcency or other offence, the punishment whereof shall extend to affect life, limb or member, shall have full power and authority to commit such fugitive to any jail within this state, for the space of six months, unless sooner demanded, agreeably to the directions of an act of Congress in such case made and provided.

How fugitives shall be dealt with.

2. *And be it further enacted*, That if no demand is made within said term of time, then said fugitive shall again be liberated; any law, usage or custom to the contrary notwithstanding.

CHAP. 787.

An act more effectually to prevent delay in the administration of justice.

Be it enacted, &c. That so much of the several acts^(a) of the General Assembly heretofore passed, as requires the transcript of any suit, either civil or criminal, together with depositions and other written evidences filed, to be transmitted fifteen days before the sitting of any court to which the same may be removed, be, and the same is hereby repealed and made void: *Provided nevertheless*, that in case of removal, the clerk of the court from which said cause is removed, shall have full power and authority to issue subpoenas for witnesses, returnable to the court to which the said cause shall be ordered to be transmitted for trial; any law to the contrary notwithstanding.

(a See 1806, c. 694, s. 12.)

Part of former act repealed.

Clerk to issue subpoenas.

CHAP. 788.

An act to redeem the paper currency now in circulation, and to establish a bank, by the name and title of the "State Bank of North-Carolina."^(b)

(b See 1811, c. 806, 1816, c. 904.)

1. *Be it enacted, &c.* That a bank shall be established in the state of North-Carolina, the capital stock whereof shall not exceed one million six hundred thousand dollars, divided into shares of one hundred dollars each.

The capital.

To consist of a principal and several branch banks.

2. *Be it further enacted*, That the bank so established, shall consist of one central or principal bank, to be fixed at the city of Raleigh, the capital of which shall be three hundred thousand dollars, and the several branch banks hereinafter named, viz. at Edenton, the capital stock whereof shall be two hundred thousand dollars; at Newbern, with a capital stock of three hundred thousand dollars; at Wilmington, with a capital stock of three hundred thousand dollars; at Fayetteville, with a capital stock of two hundred thousand dollars; at Tarborough, with a capital stock of one hundred thousand dollars; and at Salisbury, with a capital stock of two hundred thousand dollars. It shall and may be lawful for the treasurer to cause to be subscribed for and in behalf of the state, the sum of two hundred and fifty thousand dollars, which sum shall be reserved for the use of this state, to be paid for in stock of the United States, and the residue in gold or silver, at such time or times as it may be convenient for the state to pay the same. The stock so subscribed and paid for on account of the state, consisting either in money or certificates of the United States, shall be distributed and divided among the principal and branch banks, in proportion to the capital stock allotted and set apart for each establishment. Subscriptions shall be opened on the first day of April next, and remain open for sixty days, at the following places, viz. at Raleigh, under the superintendence of John Haywood, Henry Seawell, William Peace, William Boylan, Joseph Gales, William Polk, Theophilus Hunter, Benjamin Brickell, James Mebane, James Turner, Stephen Outerbridge, Duncan Cameron and Beverly Daniel; at Edenton, under the superintendence of Josiah Collins, Samuel Tredwell, Matthias E. Sawyer, Frederick Norcom, Joseph Bozman, Joseph B. Skinner, William T. Muse, Isaac Barber and Joseph Bleunt; at Newbern, under the superintendence of William Sheppard, John S. West, Eli Smallwood, William Blackledge, Moses Jarvis, Asa Jones, Jeremiah Mastin, William Croom, Vine Allen, Henry Selby, William Orr, Thomas Holliday, Jesse Slocumb; at Wilmington, under the superintendence of Nathaniel Hill, John Lord, Robert Cochran, Hanson Kelly, Owen Kenan, Thomas F. Davis, John Owen, James B. White, Daniel Kenan, Edward Ward, junior, John G. Scull; at Fayetteville,

Books to be opened.

Commissioners.

under the superintendence of Robinson Mumford, jun. Thomas Davis, David Anderson, Henry Branson, John M'Millan, Simeon Belden, Charles Chalmers, John Eccles, John Kelly, Oliver Pearce, Hugh Campbell, Duncan M'Lerran, Duncan M'Rae, Elisha Stedman, Robert Holliday; at Salisbury, under the superintendence of Francis Locke, Doctor William Moore, Samuel S. Savage, John Fulton, James Locke, Alexander Gray, Charles F. Bagge, John Nesbit, George Mumford, Lewis Beard, Richard Trotter, Gotlieb Shober, John Kelly; at Tarborough, under the superintendence of Thomas Blount, Edward Hall, Amos Johnston, William Amis, Simmons J. Baker, Robert Williams, Jacob Battle, Thomas B. Hill, H. J. Pride, John Hilliard, William Arrington. A majority of the said commissioners, at each or any of the above mentioned places, shall be competent to perform the duties of their appointment; and if the number of shares allotted for each place shall not be subscribed within the term of sixty days, they shall keep the said books open for six months, and no longer. But the corporation by this act created, may, at any future time, open books to receive subscriptions for the remaining shares unsubscribed, at such time and place, and under the superintendence of such persons, as they may deem advisable and expedient. But in the mean time, it shall be the duty of the commissioners of the respective branch banks, as soon as they shall actually have received twelve thousand five hundred dollars, to give notice of the same to the commissioners of the principal bank at Raleigh, who shall forthwith notify the same in all the papers published in Raleigh; and the same persons shall, at the same time, notify the time and place within the city of Raleigh, at the distance of thirty days from the time of such notification, for proceeding to the choice of nineteen directors; and it shall be lawful for such choice then and there to be made: And the nineteen persons who shall be then and there chosen, shall be the first directors, and shall be capable of serving until the first Monday in December thereafter, by virtue of such choice, or until their successors shall be duly elected; and the said directors shall forthwith commence the operation of a bank in each of the towns previously enumerated, whose commissioners shall have given them

When the bank shall go into operation.

notice of the requisite sums being actually received for the use of the corporation.

How the shares
are to be paid
for.

3. *And be it further enacted*, That three-fourths of the amount of the share or shares subscribed for by the several and respective subscribers, shall be paid in gold or silver, and the last and remaining fourth, or any lesser part thereof, the subscribers shall pay in the paper currency emitted by this state: one fourth of which said payments to be made at the time of subscribing, to the commissioners; one fourth within sixty days after the bank shall go into operation; one fourth within one hundred and twenty days, and one fourth within twelve months, to the bank directors for the time being: *Provided always*, that it shall be lawful for any subscriber to pay the whole of his subscription, or any greater part than is hereby required, before the time limited for the same; and each and every subscriber so paying in advance, shall have a discount at the rate of six per centum per annum on such advance, computing the same from the commencement of the operation of the said bank.

Paper currency
not to be a ten-
der to or from
the bank.

4. *And be it further enacted*, That the paper currency now in circulation, and which was emitted by law in 1783 and 1785, on the faith and credit of this state, shall, immediately after the said bank goes into operation, cease to be a legal tender in payment of all debts due to, or owing from the said bank, and notification thereof shall be made by the proclamation of his excellency the governor in the papers published in the city of Raleigh.

Judgments in
favor of, and
against the bank
to be granted in
gold or silver.

5. *And be it further enacted*, That all courts of justice within this state, when any suit may be brought before them, on any debt due by bill, bond, note or otherwise, against the president and directors of the State Bank of North-Carolina, by any person or persons, or by any bodies politic or corporate; or when any suit may be brought by the president and directors of the State Bank of North-Carolina, against any person or persons, bodies politic or corporate, who shall or may be indebted to the bank aforesaid, by bill, bond, note or otherwise, it shall and may, in such cases, be lawful, and the courts are hereby authorised and empowered to grant judgments in gold or silver, in the same manner as if no tender law existed. And the sheriffs are hereby required, in all such cases where execu-

tions shall have been awarded, to collect the amount in gold or silver, and make due return of the same.

6. *And be it further enacted,* That the dividend accruing upon the shares in the said bank, owned by the state, shall be applied towards the redemption of the paper currency of this state paid into the bank by virtue of this act. State dividends to go to the redemption of the paper currency.

7. *And be it further enacted,* That the subscribers to the said bank, their successors and assigns, shall be, and are hereby created and made a corporation and body politic, in law and in fact, by the name and style of "The President and Directors of the State Bank of North-Carolina," and shall so continue until the first day of January, in the year one thousand eight hundred and thirty; and by the name and style aforesaid, they shall be, and are hereby made able and capable in law to have, purchase, receive, possess, enjoy and retain, to themselves and successors, lands, rents, tenements, hereditaments, goods, chattels and effects, to an amount not exceeding in the whole, two millions five hundred thousand dollars, including the capital stock aforesaid, and the same to sell, grant, demise, alien or dispose of, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place whatever; and also to make, have and use a common seal, and the same to break, alter and renew at their pleasure, and also to ordain, establish and put in execution, such by-laws, ordinances and regulations, as shall seem necessary and convenient for the government of said corporation, not being contrary to the laws of this state or of the United States; and for the making whereof, general meetings of the stockholders may be called by the directors, in the manner hereinafter specified; and generally to do and execute all acts, matters and things, which a corporation or body politic in law, may, or can lawfully do or execute; subject to the rules, regulations, restrictions and provisions hereafter prescribed and declared. The subscribers incorporated.

8. *Be it further enacted,* That the directors of the central or principal bank, for the time being, shall have power to appoint thirteen directors for each branch bank, and such officers, clerks and servants under themselves, as well as at the several branches, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their Directors of the principal bank to appoint those of the branches.

services, respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities for the well governing and ordering the affairs of the said corporation, as shall be described, fixed and determined, by the laws, regulations and ordinances of the same.

Constitution of the corporation. 9. *Be it further enacted*, That the following rules, restrictions, limitations and provisions, shall form and be the fundamental articles of the constitution of the said corporation, viz.

Stockholders how to vote, &c. First. The number of votes to which each stockholder shall be entitled, except the state, shall be according to the number of shares he shall hold, in the proportions following, that is to say: for one share, and not more than two shares, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote. But no person, copartnership or body politic, shall be entitled to a greater number than thirty votes. The treasurer, at all elections for directors, shall, on behalf of the state, have the same number of votes to which the greatest number of stockholders may be entitled, possessing an equal number of shares with those owned by the state at the time of such election. And after the first election, no share or shares shall confer a right of suffrage, which shall not have been holden three calendar months previous to the day of election. Stockholders actually resident within the state, and none other, may vote in elections, and at general meetings of the stockholders, by proxy.

None but a stockholder eligible as director. Second. None but a stockholder, being a citizen of the state, shall be eligible as a director.

Compensation to president, &c. Third. None shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at a general meeting. The stockholders shall make such compensation to the president for his extraordinary attendance at the bank, as shall appear to them reasonable.

A quorum of directors. Fourth. Not less than seven directors, at the principal bank, and five directors at each one of the branch banks, shall constitute a board for the transaction of

business; of whom their respective presidents shall always be one, except in case of sickness or necessary absence, in which case, his place may be supplied by any other director whom he, by writing under his hand, shall nominate for the purpose.

Fifth. A number of stockholders, not less than sixty, who together shall be proprietors of two hundred shares or upwards, shall have power at any time to call a general meeting of the stockholders for purposes relative to the institution, giving at least ten weeks notice in a public gazette of the place where the principal bank is kept, and specifying in such notice the object or objects of such meeting. How to call a general meeting of stockholders.

Sixth. Every cashier or treasurer, before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than ten thousand dollars, with condition for his good behaviour. Cashier to give bond.

Seventh. The lands, tenements, hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts. Restriction in holding real property.

Eighth. The total amount of the debts which the said corporation shall at any time owe, whether by bond, bill, note or other contract, shall not exceed the sum of four millions eight hundred thousand dollars, over and above the sum then actually deposited in the bank for safe-keeping, unless the contracting of any greater debt shall have been previously authorised by a law of the state. In case of excess, the directors under whose administration it shall happen, shall be liable for the same in their natural and private capacities, and an action of debt may in such case be brought against them, or any of them, their or any of their heirs, executors or administrators, in any court of record of the state, by any creditor or creditors of said corporation, and may be prosecuted to judgment and execution, any condition, covenant or agreement to the contrary notwithstanding. But this shall not be construed to exempt the said corporation, or the lands, tenements, goods or chattels of Limit of debt due from bank.

Directors may be personally liable.

Exception.

the same, from being also liable for and chargeable with the said excess. Such of the said directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so constructed or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, with or before some ordinary public, and to the stockholders at a general meeting, which they shall have power to call for that purpose.

What the bank shall trade in.

Ninth. The said corporation may sell any part of the public debt whereof its stock shall be composed, but shall not be at liberty to purchase any public debt whatever; nor shall directly or indirectly deal or trade in any thing except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or of goods which shall be the produce of its lands. Neither shall the said corporation take more than at the rate of six per centum per annum for or upon its loans or discounts.

To take 6 per cent. only.

Loans to the government limited, &c.

Tenth. No loans shall be made by the said corporation for the use, or on account of the government of the United States, to an amount exceeding one hundred thousand dollars, or of any particular state to an amount exceeding fifty thousand dollars, or of any foreign prince or state, unless previously authorised by a law of the state.

Stock assignable.

Eleventh. The stock of said corporation shall be assignable and transferable, according to such rules as shall be instituted in that behalf by the laws and ordinances of the same.

Bank bills and notes how to pass, &c.

Twelfth. The bills obligatory and of credit, under the seal of said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon, in his, her or their own name or names. And bills or notes which may be issued by order of the said corporation, signed by the president and countersigned by the principal cashier or treasurer thereof, promising the payment of

money to any person or persons, his, her or their order, or to the bearer, though not under the seal of the said corporation, shall be binding and obligatory upon the same, in the like manner, and with the like force and effect, as upon any private person or persons, if issued by him or them, in his, her or their private or natural capacity or capacities, and shall be assignable and negotiable, in like manner as if they were so issued by such private person or persons, that is to say: those which shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement, in like manner and with like effect, as foreign bills of exchange now are; and those which are payable to bearer, shall be negotiable and assignable by delivery only.

Thirteenth. Half-yearly dividends shall be made of so much of the profits of the bank, as shall appear to the directors advisable: and once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of all the affairs relative to the bank, and divide the surplus profits. Dividends.

Fourteenth. It shall be the duty of the directors of the principal bank, to cause discounts to be granted and deposits to be received by the directors of the several branch banks, upon the same terms and in the same manner as shall be practised at the principal bank, due regard being had to the amount of capital actually possessed by the several establishments: They may require the cashier of each bank to furnish them, from time to time, as often as they may think necessary, not exceeding once a week, with statements of the amount of the capital stock of their particular office, and of the debts due the same, of the monies deposited therein, of the notes in circulation, and of the cash in hand. Nothing, however, shall be construed in this section, to give a right to the directors of the principal bank, for removing the capital stock, or any part thereof, of one branch to that of another, or to the principal bank, or to establish any branch bank other than that is now, or may be hereafter established by law. The officer at the head of the treasury department of the state, shall be furnished, from time to time, as often as he may require, not exceeding once in three months, with a statement of the amount of the capital stock of said corporation, and of Power of directors of principal bank over the branches.

Statement to be furnished the public treasury:

the debts due to the same, of the monies deposited therein, of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said state-ments: *Provided*, that this shall not be construed to a right of inspecting the account of any private individual or individuals with the bank.

Notes receiva-
ble at the trea-
sury.

No other bank
to be establish-
ed.

A preference
given in the
subscription to
the Banks of
Newbern and
Cape-Fear.

10. *Be it further enacted*, That the bills or notes of the said corporation, originally made payable, or which shall have become payable on demand, in gold or silver coin, shall be receivable in all payments to the state.

11. *And be it further enacted*, That no other bank shall be established, by any future law of this state, during the continuance of the corporation hereby created; for which the faith of this state is hereby pledged.

12. *Be it further enacted*, That the stockholders of the Banks of Newbern and Cape-Fear, heretofore in-corporated, may and shall have a preference in the sub-scription to be opened under the provisions of this act, at Newbern, Wilmington and Fayetteville, for five days, to any one individual or corporate bodies; and they are hereby authorised, either as individuals, or as bodies corporate, to subscribe first on the books at the before mentioned places, for the full amount of the capi-tal stock now owned and possessed by the said banking companies of Newbern and Cape-Fear. Nothing in this clause, however, is to be construed to extend such preference longer than five days, or to prevent other individuals from subscribing for the balance of the stock allotted to the several branches of Newbern, Wil-mington and Fayetteville, after the expiration of the term of five days, or for the whole sum, should the stockholders of the Banks of Newbern and Cape-Fear decline such subscription: *Provided always*, that nothing in this clause shall be construed to authorise the presi-dent and directors of the last named banks, to subscribe the amount of the stock owned by this state in their banks to the State Bank of North-Carolina.

What notes will
be negotiable at
the bank.

13. *And be it further enacted*, That no note shall be negotiable at the bank, unless it be so expressed on the face.

No note to issue
for less than a
dollar.

14. *And be it further enacted*, That no note shall be issued by the State Bank of North-Carolina for a less sum than one dollar.

CHAP. 789.

An act to revive and continue in force an act passed at Raleigh in the year 1803, entitled "An act for establishing a Mutual Insurance Society against fire on buildings, goods and furniture in this state." (See 1803, c. 630, 1804, c. 656, 1811, c. 810.)

1. *Be it enacted, &c.* That in order to accomplish the object of the before recited act, books be opened in the several counties of this state, on the first day of March next, as follows, to wit: at Wadesborough, in the county of Anson, under the direction of Joseph Pickett and Toddy Robinson; at Jefferson, for the county of Ashe, under the direction of Alexander Smith and John Bowers; at Washington, for the county of Beaufort, under the direction of Edward Quinn and William Ross; at Windsor, for the county of Bertie, under the direction of Joseph H. Bryan and Joseph Blount; at Morganton, for the county of Burke, under the direction of Thomas Walton and John Caldwell; at Asheville, in the county of Buncombe, under the direction of George Swain and Andrew Erwin; at Elizabeth, for the county of Bladen, under the direction of John Ellis and Isaac Wright; at Smithville, for the county of Brunswick, under the direction of Benjamin Blaney and John Conyers; at Concord, for the county of Cabarrus, under the direction of Joseph Young and John Garretson; at Newbern, for the county of Craven, under the direction of John Sears, John Oliver and William Sheppard; at Beaufort, for the county of Carteret, under the direction of Bryan Hellen and Jechoniah Speckett; at Edenton, for the county of Chowan, under the direction of Henderson Standin and Nathaniel Bond; at Fayetteville, for the county of Cumberland, under the direction of Simeon Belden and John M'Millan; at Whitesville, for the county of Columbus, under the direction of J. B. White and Isaac Powell; at Jonesborough, for the county of Camden, under the direction of Nathaniel Dains and Nathan Snowden; at Caswell Court House, for the county of Caswell, under the direction of William S. Webb and Barzillai Graves, junior; at Pittsborough, for the county of Chatham, under the direction of Zachariah Harman and William Dismukes; at the court-house for the county of Duplin, under the direction of Andrew M'Intire and Joseph Gillespie; at Tarborough, for the county of Edgecomb, under the direction of Theophilus Parker and Bennett

Book of subscription to be opened in every county.

The commissioners.

Barrow; at Lewisburg, for the county of Franklin, under the direction of George Tunstall and James Yarbrough; at Greensboro', for the county of Guilford, under the direction of Abraham Geren and Joseph Davis; at the court-house for the county of Gates, under the direction of Wells Cowper and Daniel Southall; at Oxford, for the county of Granville, under the direction of Willis Lewis and James Vaughan; at Snowhill, for the county of Greene, under the direction of Thomas Holliday and James G. Sheppard; at Halifax, for the county of Halifax, under the direction of William Burt and Jesse Rhymes; at Winton, for the county of Hertford, under the direction of Joseph F. Dickinson and Jabez Wheeler; at Waynesville, for the county of Haywood, under the direction of John Welch, senior, and Solomon Battle; at Germantown, for the county of Hyde, under the direction of Joseph Masters and John Clark; at Statesville, for the county of Iredell, under the direction of James Irwin and John Nesbit; at Trenton, for the county of Jones, under the direction of William H. Conner and Hardy Bryan; at Smithfield, for the county of Johnston, under the direction of William Sasser and Robert Helm; at Lincolnton, for the county of Lincoln, under the direction of David Reinhardt and James Bivings; at Kinston, for the county of Lenoir, under the direction of John Gatling and John Washington; at the court-house for the county of Martin, under the direction of Samuel Hyman and Richard Williams; at Charlotte, for the county of Mecklenburg, under the direction of William Davidson and William Allison; at Henderson, for the county of Montgomery, under the direction of James Perry and George W. Davidson; at Fagansville, for the county of Moore, under the direction of Atlas Jones and Archibald M'Neil; at the court-house for the county of Northampton, under the direction of Francis Dancy and Lawrence Smith; at the court-house for the county of Nash, under the direction of George Boddie and Archibald Griffin; at Wilmington, for the county of New-Hanover, under the direction of John Bradley and Thomas Cowan; at Swansborough, for the county of Onslow, under the direction of William Ferrand and Brice Pender; at Hillsborough, for the county of Orange, under the direction of William Whitted and John Street; at Elizabeth City, for the county of Pasquotank, under the direction of Charles

Lurice and Nathan Trueblood; at Hartford, for the county of Perquimons, under the direction of John Wood and Gabriel White; at Greenville, for the county of Pitt, under the direction of George Green and Reddin Sheppard; at Roxborough, for the county of Person, under the direction of Jas. Williamson and William Jeffreys; at Lumberton, for the county of Robeson, under the direction of Alexander Rowland and Charles Moore; at Salisbury, for the county of Rowan, under the direction of Albert Torrens and Daniel Crest; at Rutherfordton, for the county of Rutherford, under the direction of Joseph Hamilton and George Walton; at Ashborough, for the county of Randolph, under the direction of Joshua Craven and Benjamin Elliott; at Rockingham, for the county of Richmond, under the direction of John Clark and Walter Leak; at Wentworth, for the county of Rockingham, under the direction of James H. Scales and James Campbell; at Rockford, for the county of Surry, under the direction of Matthew M. Hughes and Joseph Williams, junior; at Germanton, for the county of Stokes, under the direction of Isaac Dalton and Andrew Bowman; at the court-house for the county of Sampson, under the direction of Thomas King and John Bryant; at Columbia, for the county of Tyrrell, under the direction of Charles Hoskins and Zebulon Tarkinton; at Warrenton, for the county of Warren, under the direction of William A. K. Falkener and Peter R. Davis; at Raleigh, for the county of Wake, under the direction of Joseph Gales, William Boylan and William Glendinning; at Waynesborough, for the county of Wayne, under the direction of John Bledsoe and Philip Hooks; at Plymouth, for the county of Washington, under the direction of Lemuel Clark and Reuben Carrol; at Wilkesborough, for the county of Wilkes, under the direction of John Findley and James Waugh, for the purpose of receiving subscriptions for insurance against fire on buildings, goods and furniture, in the state of North-Carolina; such books to be opened on the first day of March next, and kept open until the Society shall otherwise direct; that on the twentieth day of June, returns shall be made by the several persons heretofore named, to Joseph Gales, William Boylan and William Glendinning, of the city of Raleigh, of a transcript of the amount of the subscriptions made on their books, distinguishing in

Returns to be
 made to Raleigh
 on the 20th of
 June.

such returns, the amount on buildings, goods and furniture respectively; and on the event of the sum so subscribed exceeding the sum of two hundred thousand dollars, it shall be the duty of the said Joseph Gales, William Boylan and William Glendinning, to give public notice thereof in each of the newspapers published in the city of Raleigh, and to appoint a meeting of the subscribers, in person or by proxy, constituted by delivery of the certificate of subscription, the production of which shall be deemed sufficient (until provision be made by the society) in the city of Raleigh, on the first day of September next; and if the subscription at or before the said meeting, or so soon thereafter as they shall amount to the said sum of two hundred thousand dollars at least, the said subscribers shall be considered as a body politic and corporate.

When the Society shall go into effect.

Former act continued.

2. *And be it further enacted*, That the aforesaid recited act, except such parts thereof as are herein provided for or altered, be, and the same are hereby continued in full force, in the same manner as if the same had been carried into operation at the time therein specified.

What shall be paid at the time of subscribing.

3. *And be it further enacted*, That the said agents or commissioners by this act appointed, shall, at the time of receiving any subscription for insurance, on delivering a certificate thereof, demand and receive from the person or persons so subscribing, the sum of one dollar for every thousand by him, her or them so subscribed, and shall deliver to the person so subscribing, a certificate stating the amount subscribed, together with the sum received, which sums of money, by them so received, shall be transmitted with the returns to the commissioners (in Raleigh) for the county of Wake.

CHAP. 790.

An act regulating the inspection of flour in this state. (a)

Preamble.

Whereas the laws heretofore passed for the inspection of flour in this state, have been found defective,

Inspectors of flour to be appointed.

1. *Be it therefore enacted, &c.* That an inspector of flour shall be appointed at each of the following places, to-wit: Fayetteville, Wilmington, Newbern, Edenton, Washington, Tarborough and Plymouth.

(a See 1784, c. 206; 1793, c. 386; 1811, c. 897; 1813, c. 852.)

2. *And be it further enacted,* That the courts of the several counties in which the places aforesaid are situate, shall, at the first court of pleas and quarter sessions which shall be held in said counties after the first day of January in each and every year, not less than ten acting justices being present, nominate and appoint a person of good repute, and who is a skilful judge of the quality of flour, at each of the places aforesaid; and in case of the death of any person so appointed, or his refusal or neglect to act, the justices of said counties, respectively, or any three of them, shall, as soon as conveniently may be thereafter, meet together and appoint some other person in the room of the one so dead, refusing or neglecting to act, who shall execute the duties of his office until the next court held for the county where such vacancy may have happened; and at such court, the justices shall appoint, in manner before directed, some person to be inspector of flour for the residue of the year.

How to be appointed.

3. *And be it further enacted,* That all bolted wheat flour, and every cask thereof, brought to any of the places before mentioned for sale or exportation, shall be made by the miller or manufacturer thereof, merchantable and of due fineness, and without any mixture of coarser flour, or flour of any other grain than wheat.

Flour to be of due fineness.

4. *And be it further enacted,* That all flour casks which shall be brought to any of the before mentioned places for sale or exportation, shall be well made with good seasoned materials, tightened with ten hoops, sufficiently nailed with four nails in each chine hoop, and three nails in each upper bilge hoop; and the flour barrels shall be made of the following dimensions, to-wit: the staves shall be twenty-seven inches in length, and the head seventeen and one-half inches in diameter; and half barrels of the following dimensions, to-wit: the staves shall be of the length of twenty-three inches, and the diameter of each head twelve and one-half inches.

Flour casks to be well made, &c.

5. *And be it further enacted,* That every miller of flour for sale or exportation, shall provide and keep a distinguishable mark or brand, containing the initials of his christian name and his surname at length, with which he shall brand every barrel of flour, and mark thereon the nett and tare weight, before the same shall be removed from the place where it was bolted, under the penalty of forty cents for every cask of flour not hooped, marked

Millers to brand their flour.

and branded and nailed as aforesaid, to be recovered from such miller who shall neglect to comply with the directions of this act, or from the person who shall bring such flour to any of the places aforesaid for sale: and in case said penalty should be recovered from the person bringing such flour for sale, such person shall and may recover the same from the miller or bolter from whom he purchased or received the same: *Provided* it appears, that he gave notice to said miller or bolter that he intended to carry the same to one of the places aforesaid for sale or exportation, and that he requested said miller or bolter to secure and brand said barrels.

What each barrel and half barrel shall contain.

6. *And be it further enacted*, That every miller or bolter shall put into each barrel the full quantity of one hundred and ninety-six pounds of flour, and shall put into half barrel the full quantity of ninety-eight pounds of flour; and if any one of them shall put into any cask a less quantity than is directed by this act, he shall forfeit and pay for the deficiency of each pound the sum of ten cents.

Inspectors may unpack flour.

7. *And be it further enacted*, That the inspector, upon suspicion, or at the request of the purchaser, shall, and he is hereby required to unpack any cask of flour, and if there shall be a less quantity than above directed, the miller, bolter or seller, shall pay the charges of unpacking and repacking, over and above the penalties aforesaid; but otherwise, the charges shall be paid by the inspector, or by the purchaser, if the trial be made at his request.

Manner in which flour shall be examined.

8. *And be it further enacted*, That each and every cask of flour brought to any of the before mentioned places for sale, or to be from thence laden or shipped for exportation, or which in said places shall be manufactured for sale or exportation, shall be submitted to the view and examination of the inspector of such place, who shall inspect and try the same by boring through the cask from one head, with an instrument not exceeding half an inch in diameter, and equal in length with a barrel of flour, to be by him provided for the purpose; and if he shall judge that the same is well packed and merchantable, according to the directions of this act, he shall plug up the hole and brand the cask in the quarter with the name of the place in which he is inspector, with a public brand-mark, to be by him pro-

vided for that purpose, and shall also brand and mark the degree of fineness which he, on inspection, shall determine the same to be of; which degree shall be distinguished as follows, to wit: superfine, fine, middling, ship-stuff. For which trouble, the inspector shall have and receive from the owner of such flour, the sum of five cents for each cask by him thus inspected. And no inspector shall pass any flour which shall prove on examination to be unmerchantable, agreeable to the true intent and meaning of this act, but shall cause the same to be marked on the bilge *condemned*, or secure it for further examination, if required; which examination the owner shall procure to be made within twenty days, and the inspector shall and may demand and receive from the owners thereof, the same rate and prices as if the same had been passed. And it shall not be lawful for any person to export or lade on board of any ship or vessel for exportation out of this state, any barrel of flour marked *condemned* by an inspector; or to export or lade on board of any ship or vessel for exportation out of this state, any casks or barrels of flour not inspected and branded as aforesaid, on pain of forfeiting ten dollars for every cask or barrel of flour exported or put on board of any ship or vessel for exportation.

And whereas it may so happen, that evil disposed persons may pack flour and meal in old casks, which have been previously branded agreeably to this act, by which means that valuable commodity may be injured at foreign markets :

9. *Be it therefore enacted*, That if any person shall pack flour or meal of any kind whatever in a cask which has been inspected and branded with the name of a miller, such person shall forfeit and pay the sum of twenty dollars for every barrel so packed for sale; to be recovered before any justice of the peace, one half to the use of the informer, the other half to the miller who has been injured by such false packing, and be further liable to the action of the party aggrieved.

Penalty for
packing flour in
old casks.

10. *And be it further enacted*, That every inspector of flour, before he enters on the execution of his office, shall make oath or affirmation, " that he will, without favour, affection, malice or partiality, inspect all flour brought to him, and which he shall be required to examine; that no flour shall be passed or branded by him without his inspecting the same: that he will not brand,

Oath to be
taken by the
inspectors.

or cause to be branded as passed, any cask or casks of flour, that do not appear to him, to the best of his skill and judgment, to be sufficiently clean, well ground, sweet and merchantable; that he will mark on all casks of flour the degree thereof, according to the directions of this act; that he will carefully examine the casks in which flour brought for inspection shall be contained; and that he will not pass or brand any such casks, unless they be of such size, goodness and thickness as by this act required."

No inspector to be a purchaser of flour. 11. *And be it further enacted,* That no inspector of flour shall, directly or indirectly, purchase any flour by him condemned, or any other flour whatsoever, other than for his own use, under the penalty of seven dollars for every barrel by him purchased.

Penalty for altering the brand of an inspector. 12. *And be it further enacted,* That if any person shall alter the mark branded on any cask of flour by an inspector; or shall mark or brand any cask of flour which has not been inspected, with any mark or brand similar to, or in imitation of any inspector's mark or brand; or after an inspector shall have passed any cask of flour as merchantable, shall pack into such cask any other flour; or after any cask of flour shall be branded "*condemned,*" shall unpack and repack the same in other casks for exportation, such person shall forfeit and pay the sum of seven dollars for every cask.

Inspectors may be removed from office. 13. *And be it further enacted,* That the courts of the several counties in which the before mentioned places are situate, may, upon conviction, at any time remove from office, any inspector of flour, for neglect of duty, malfeasance or corrupt practices, and appoint another inspector to fill such vacancy for the residue of the year.

How forfeitures shall be recovered. 14. *And be it further enacted,* That each and every forfeiture and penalty, by this act imposed, (except those mentioned in the ninth section of this act,) shall and may be recovered in an action of debt, before any jurisdiction having cognizance thereof, to the use of the person suing for the same.

Former acts repealed. 15. *And be it further enacted,* That all acts and parts of acts coming within the meaning and purview of this act, shall be, and are hereby repealed and made void.

When this act shall take effect. 16. *And be it further enacted,* That the several directions of this act, except so much as is contained in the second section, shall commence and be in force from and after the first day of March next.

CHAP. 791.

An act to amend an act, entitled "An additional act to an act, entitled 'Feme coverts how to pass lands.'" (a)

(a See 1751,
c. 50, 1798,
c. 510, 1816,
c. 927.)

Whereas by the removal of persons from this state, and the right of females to inherit lands equally with males, it happens that the inheritance of many lands in this state is in feme coverts who are residents of other states or governments, and the method prescribed by the before recited act for taking the acknowledgment of feme coverts to conveyances of lands lying in this state, hath been found inconvenient to purchasers and others, and often impracticable, by reason of the death of the feme covert, or other accident:

Preamble.

1. *Be it enacted, &c.* That where any conveyance for lands in this state, shall be made by husband and wife residing in any of the United States, other than this state, or in any of the territories of the United States, and by them personally acknowledged before some one of the judges of the courts of supreme jurisdiction in said state or territory; or where the wife shall personally acknowledge such conveyance before two or more commissioners duly authorised to take such acknowledgment, under a commission issued from some court of record in said state or territory, the wife being first privily examined before said judge or commissioners whether she doth voluntarily assent thereto, and an attestation of such acknowledgment endorsed on or affixed to said deed or commission by the said judge or commissioners, and the certificate of the governor of the said state or territory duly authenticated and annexed to said deed that the judge before whom such acknowledgment was taken was, at the time of taking thereof, one of the judges of the courts of supreme jurisdiction in said state or territory, or that the court which issued such commission is a court of record, and the person signing said commission is clerk of said court, such deed shall, upon being exhibited to the court of pleas and quarter sessions of the county where such lands lie, or one of the judges of the superior courts, be ordered to be registered, with the certificates and commission endorsed thereon, or annexed thereto; and when so registered, shall be valid in law to convey all the estate and title which such feme covert may or shall have in

Manner in which the acknowledgment of feme coverts shall be taken, in any of the U. States.

any such lands, tenements or hereditaments so conveyed, and shall be received in evidence in courts of law and equity, without further proof.

How taken
when residing
in foreign parts.

2. *Be it further enacted*, That any deed for the conveyance of lands in this state, or any power of attorney to convey lands in this state, made by husband and wife who reside in foreign parts, or without the limits of the United States, which shall be personally acknowledged before the mayor, or other chief magistrate of any city, town or corporation, the wife being first privately examined by such mayor or chief magistrate, whether she doth voluntarily assent thereto, and an attestation thereof endorsed thereon or affixed thereto, shall, upon being exhibited to the court of pleas and quarter sessions of the county where such land lies, or one of the judges of the superior courts of this state, be ordered to be registered, and shall be registered in the same manner as if such deed or power had been proved or acknowledged in open court of the county where the lands lie, and shall be valid in law to pass the estate and title of the wife to all such lands, tenements and hereditaments, so conveyed or to be conveyed; and when registered as aforesaid, shall be received in evidence, without further proof.

How powers of
attorney made
in foreign parts
shall be proved.

3. *Be it further enacted*, That any power of attorney to convey lands in this state, made by any person or persons in foreign parts, which shall be personally acknowledged or proved before the mayor or chief magistrate of any city, town or corporation, and an attestation thereof endorsed thereon or affixed thereto, shall, upon being exhibited to the court of pleas and quarter sessions of the county where the lands lie, or one of the judges of the superior courts of this state, be ordered to be registered, and shall be registered, in the same manner as if such power had been proved or acknowledged in open court of the county where the lands lie; and when so registered, shall be received in evidence in any of the courts of this state, without further proof of the execution thereof.

CHAP. 792.

An act to amend the fifth section of an act, entitled "An act directing the mode of proceeding against the real estate of deceased debtors, where the personal estate is insufficient for the payment of the debts," passed at Newbern in October, 1784.(a) (a See 1784, c. 226.)

Be it enacted, &c. That when any collateral issue shall be ordered to be made up between the executors or administrators and the heirs or devisees, in pursuance of the said fifth section of the above recited act, the same shall be tried at or before the second term thereafter of the court where the said issue shall be ordered, and in default thereof, judgment shall be rendered against the lands of said deceased debtor, in favor of the original plaintiff, agreeable to *scire facias*, unless on sufficient cause shewn to the court, further time shall be given for the trial of said issue. Collateral issues to be tried at or before the 2d term.

CHAP. 793.

An act to compel persons to give security in certain cases,

1. *Be it enacted, &c.* That in future, when any person or persons shall obtain a writ of *Recordari facias loquelam*, or writ of false judgment, to remove any proceedings which shall be had before a magistrate, to any of the superior courts in this state, the person or persons so applying (if the defendant or defendants below) shall be required to give bond with good and sufficient security for the payment of the judgment and costs which may be recovered against such person or persons in the superior court; which bond shall be transmitted by the said magistrate, with the writ and other papers, to the court to which they are returnable. And the magistrate before whom the cause was tried, is hereby authorised and required to take such security, in the same manner as security is taken on appeals to the county court. Bond and security to be given for recordari.

2. *And be it further enacted,* That in all cases where *certioraris* are directed to the county courts, the clerk of the court is hereby required to take security, in the same manner, and under the same regulations, that security is taken on appeals from the county to the superior court. Likewise for certiorari.

CHAP. 794.

An act to point out the method in which injunction bonds shall be proceeded upon which are given agreeably to the directions of an act of Assembly in such case made and provided, passed in the year 1800.(a)

(a See 1800, c. 551.)

Preamble.

Whereas inconveniences are experienced by there being no particular method pointed out in which bonds shall be proceeded upon which are given to the several clerks and masters in equity, in case of an injunction obtained: For remedy whereof,

How injunction bonds are to be proceeded upon.

Be it enacted, &c. That from and after the passing this act, that in all cases where bonds are given on the obtaining of an injunction, and said injunction should be dissolved, that the said bond shall be proceeded upon in the same manner, and under the same rules and restrictions, that bonds are proceeded upon in cases of appeals from the county to the superior courts; any law, usage or custom to the contrary notwithstanding.

CHAP. 795.

An act prescribing the manner in which the public printing shall in future be regulated.(b)

(b See 1793, c. 388, 1798, c. 511.)

Preamble.

Whereas it is represented to this General Assembly, that the public printing can be obtained for a much less sum than heretofore allowed for that service: And whereas it is the duty of the legislature to consult economy in the expenditure of the public money:

Printer's duty.

1. *Be it therefore enacted, &c.* That it shall be the duty of the public printer to print a sufficient number of the journals of each session of the General Assembly to supply each member thereof with one copy, and the offices of the governor, treasurer, secretary and comptroller, with each a copy, and one other copy for each of the clerks of the General Assembly; a sufficient number of the acts passed at each session to serve each member of the General Assembly with one copy, also one copy for each of the public offices and clerks as aforesaid, one copy for every judge and clerk of the superior courts, one for the attorney and solicitor-general each, one for every clerk and master in equity, and one copy for every justice of the peace, county court clerk,

sheriff and coroner throughout the state, and one copy of the public laws for the executive of each state in the Union. It shall also be the duty of the public printer to print for the use of the two houses of the General Assembly whilst in session, copies for every member thereof of the rules of their respective houses, and of such public bills, resolutions, reports or messages, as they may from time to time direct, as well as a copy of the titles of the laws passed at the close of each session, certificates for the attendance of the members, and alphabetical lists of the names of the members for the use of the clerks. And it shall be the further duty of the public printer to publish in some newspaper printed in the city of Raleigh, as soon as may be after the close of each session, all the acts of a public nature which have been passed, as well as any proclamation which may at any time be issued by his excellency the governor of the state.

2. *And be it further enacted,* That it shall be the further duty of the public printer to have the laws and journals of each session printed and delivered within ninety days from the close of every session, and when thus finished and addressed to every member of Assembly, judge, justice of the peace, and others entitled to receive them, that he cause them to be packed up in parcels for each county, and delivered by trusty persons employed for the purpose to the clerks of every county court in this state; and within the same time shall be distributed, such acts of Congress as shall be transmitted for the use of this state; or in the absence of such clerk, to some proper person in his behalf, whose receipt for the same he shall deliver to the comptroller, before he shall be considered as having fulfilled the duties of his office.

When to print,
and how to de-
liver the laws.

3. *And be it further enacted,* That the public printer shall be allowed the sum of four hundred and fifty pounds annually, (a) in full compensation for the aforesaid enumerated services.

His salary.

(a 1,000 dollars
by 1815, c. 890.)

4. *And be it further enacted,* That all acts and clauses of acts which come within the meaning and purview of this act, be, and the same are hereby repealed and made void.

Former acts re-
pealed.

CHAP. 796.

An act to prevent the recovery at law of any bet or wager made on a horse-race.

Preamble.

Whereas the practice of horse-racing has been found unproductive of those good consequences expected to flow from it; and on the contrary, is productive of many evils to the good citizens of this state: For remedy whereof,

Bonds, &c. given on a horse-race to be void.

1. *Be it enacted, &c.* That from and after the first day of January next, every promise, agreement, note, bill, bond or other contract, to pay, deliver or secure money or other thing, won or obtained by wagering or betting on a horse-race, or to repay or secure money or other thing, lent or advanced for that purpose at the time of such betting or adventuring, shall be void; and any conveyance or lease of lands, tenements or hereditaments, sold, demised or mortgaged; and every sale, mortgage or other transfer of slaves or other personal estate, to any person, or for his use, to satisfy or secure money so won, lent or advanced, on due proof made before any jurisdiction having cognizance thereof, shall be, and is hereby declared void.

Former acts repealed.

2. *And be it further enacted,* That all acts and clauses of acts coming within the meaning and purview of this act, are hereby repealed and made void.

CHAP. 797.

(a See 1808, c. 746, s. 2.)

An act to amend the second section of an act, passed in the year 1808, to mitigate the severity of Executions.(a)

Articles not to be taken in execution, and allowed insolvent debtors.

Be it enacted, &c. That in all cases of executions against the goods and chattels, and in the case of insolvent debtors applying for discharge, one wheel and cards, also one loom, the property of the defendant or insolvent, shall always be deemed and held exempt from seizure, and be excepted, like working tools and arms for muster, in the oath to be taken by the insolvent; any law, usage or custom to the contrary notwithstanding.

CHAP. 798.

An act making it the duty of the attorney-general, the solicitors both in the county and superior courts, to take up the state docket regularly, as the suits are entered on the same.

1. *Be it enacted, &c.* That from and after the passing of this act, it shall be the duty of the attorney-general, the solicitors both in the superior and county courts within this state, to take up the state docket regularly, as the suits are entered on the same, unless otherwise ordered by the court; and not as heretofore, subject to be taken up at the will of the attorney acting for and on behalf of the state.

State docket to be taken up regularly.

2. *And be it further enacted,* That the suits on the state docket shall be tried or continued, in the same manner as suits on the civil side of the docket; any law, usage or custom to the contrary notwithstanding.

CHAP. 799.

An act to amend an act of the last session, entitled "An act granting to the several counties in this state, all fines, forfeitures, amercements and tax-fees, for the purpose of paying the expense of state prosecutions and contingent charges of the counties." (a)

(a See 1809, c. 769, 1813, c. 864.)

Whereas it often happens that state prosecutions are tried in different counties from those wherein they originate, as well by removal as by the force of the twelfth section of the "Act for the more uniform and convenient administration of justice," which retains all prosecutions depending in the old district superior courts, to the counties wherein those courts were holden, whereby doubts may arise as to the counties liable to pay the charges of such prosecutions:

Preamble.

1. *Be it therefore enacted, &c.* That from and after the passing of this act, in all cases where the counties are liable to pay costs, those counties wherein the offences shall have been charged to be committed, shall pay them: And all fines, forfeitures and amercements shall be accounted for and paid to the trustee of the county wherein the offence may have been charged to be committed, whereon such fine, forfeiture or amercement shall have arisen.

Counties where offences are committed to pay costs.

Tax-fees in equity to be paid to the county trustee.

2. *And be it further enacted*, That tax-fees on suits in equity shall be paid over to the county trustee, in like manner as tax-fees on suits at law.

CHAP. 800.

An act relating to bonds given by sheriffs and clerks of the superior courts and courts of pleas and quarter sessions.

When suits on clerks' and sheriffs' bonds shall be brought.

Be it enacted, &c. That all suits on sheriffs, superior court clerks, and clerks of the courts of pleas and quarter sessions bonds, if the right of action has already accrued, shall be commenced and prosecuted within three years after the passage of this act, and not afterwards. And all such suits, in case the right of action shall accrue hereafter, shall be commenced and prosecuted within six years after the said right of action shall have accrued, and not afterwards, saving nevertheless the rights of infants, feme covert, and persons *non compos mentis*, so that they sue within three years after their disabilities are removed.

CHAP. 801.

(a See 1806, c. 694, 1807, c. 712, s. 1, 2, 3.)

An act regulating the mode of appointing jurors for the county courts of pleas and quarter sessions of this state. (a)

Jurors to county courts to be appointed as jurors to superior courts.

Be it enacted, &c. That the jurors of the courts of pleas and quarter sessions, shall, in future, be appointed in the same manner, and drawn out of the same box, as jurors to the superior courts of law and equity within this state: *Provided however, and be it further enacted*, that should the name of any justice of the peace be drawn for the county court, the same shall be returned into the box from which it was taken, and another ticket drawn out in his place.

CHAP. 802.

An act extending the law respecting insolvent debtors to free persons of colour.

Preamble.

Whereas doubts have arisen whether free persons of colour are entitled to the benefits arising to the citizens

of this state under the act respecting insolvent debtors: (a) For remedy whereof, (a See 1773, c. 100.)

Be it enacted, &c. That the laws now in force in this state granting any privilege to insolvent debtors, are hereby extended to all free persons of colour, under the same rules, regulations and restrictions, to all intents and purposes, as the acts now are to insolvent debtors; any thing to the contrary notwithstanding. Law extended to free persons of colour.

CHAP. 803.

An act allowing further time for registering grants, proving and registering deeds, mesne conveyances, powers of attorney, bills of sale and deeds of gift. (b See 1808, c. 762, 1812, c. 834.)

1. *Be it enacted, &c.* That all grants for land in this state, all deeds of mesne conveyances, powers of attorney under which any lands, tenements or hereditaments, have been or may be conveyed, bills of sale, deeds of gift already proved as deeds of conveyance are required to be proven, or which may hereafter be proved, shall and may, within two years after the passing of this act, be admitted to registration, under the same rules and restrictions as heretofore appointed by law; and said grants, deeds, mesne conveyances, powers of attorney, bills of sale and deeds of gift, shall be as good and valid as if they had been proved and registered within the time heretofore allowed; any law, usage or custom to the contrary notwithstanding. Two years longer allowed for registering grants, &c.

2. *And be it further enacted,* That whenever a deed for the conveyance of lands within this state, has been or may be executed in any part or place without this state, and the subscribing witness or witnesses are also without the state, that then and in that case, it shall and may be lawful for the court of pleas and quarter sessions of the county in which such lands lie, to direct a dedimus to two or more commissioners in the state where the subscribing witness or witnesses reside, empowering them, or either of them, to take the acknowledgment or probate of such deed, and to return the same, with a certificate of such probate or acknowledgment, to the said court; whereon such dedimus and certificate of probate or acknowledgment, and the deed itself, shall be admitted to registration, which registra- Manner of proving deeds executed out of the state.

tion shall be good and effectual, to all intents and purposes: *Provided always*, that in case of the death of a subscribing witness or witnesses to any deed or other instrument requiring registration, satisfactory proof of the hand-writing of such deceased witness, together with proof of the hand-writing of the grantor, shall be sufficient for that purpose.

CHAP. 804.

(*a* See 1808,
c. 758, 1812,
c. 843.)

An act to revive and continue in force an act passed in the year 1808, directing the manner and time in which surveys of land were to be made and returned into the secretary's office. (*a*)

Farther time allowed for surveys to be made.

1. *Be it enacted, &c.* That all *bona fide* entries of land in this state, which have been paid for, as by law directed, shall have until the first day of December, eighteen hundred and twelve, for surveys to be made and returned into the secretary's office; any law to the contrary notwithstanding.

2. *And be it further enacted*, That this act shall be in force from the ratification thereof.

CHAP. 805.

An act to establish the line between the counties of Brunswick and Columbus, and to extend the time for running the lines on Eagle's Island, between Brunswick and New-Hanover counties.

Boundary between Brunswick and Columbus counties.

1. *Be it enacted, &c.* That Waccamaw River, from the South-Carolina line up to the stake, shall be considered as the true and established boundary between the said counties; and that the county courts of Brunswick and Columbus shall, together or separately, have the power and authority to order the said river, from bank to bank, cleared out, and to enforce the working thereupon on the inhabitants of their own counties, respectively, whenever they, or either of them, think proper; and also that process issued from the courts of justices of either of the said counties, may and shall be served and executed on any person passing along, and within the banks of said river; any law, usage or custom to the contrary notwithstanding.

And whereas the commissioners appointed to superintend the running of the division lines on Eagle's Island, between the counties of Brunswick and New-Hanover, have not accomplished the same in the time prescribed by an act passed at the last session :

Be it enacted, That twelve months longer be allowed for effecting the said business.

Read three times and ratified in General Assembly, }
December 21, A. D. 1810. }

JO. RIDDICK, S. S.
WILLIAM HAWKINS, S. H. C.

A Copy.—WM. WHITE, Secretary.

At a General Assembly, begun and held at Raleigh, on the eighteenth day of November, in the year of our Lord one thousand eight hundred and eleven, and in the thirty-sixth year of the independence of said state.

Wm. Hawkins,
Esq. governor.

CHAP. 806.

An act in addition to the act, entitled " An act to redeem the paper currency now in circulation, and to establish a bank by the name and title of the State Bank of North-Carolina," passed in the year one thousand eight hundred and ten.(a) (a See 1810, c. 788.)

Whereas the subscriptions to the capital stock of the State Bank of North-Carolina, have fallen short of the sum authorised to be subscribed thereto by the above recited act, and it becomes necessary in consequence thereof, to modify the conditions upon which by the said act, the charter of incorporation was granted, in order to enable the state, through the agency of the bank, to effect one of the principal objects had in view in its establishment, the redemption of the paper currency :

Preamble.

1. *Be it therefore enacted*, &c. That the president and directors of the State Bank of North-Carolina shall not be bound to pay to the state full dividends upon the whole sum of two hundred and fifty thousand dollars of the stock of the said bank, reserved by the above recited act to the use of the state, and upon which by the said act the state is entitled to full dividends ; but it is hereby declared to be lawful for the said president and

Four per cent.
reserved out of
dividends on
unpaid shares
of the state.

directors, out of the full dividends to be declared on the said sum of two hundred and fifty thousand dollars held by the state in their stock, to retain at the end of each year, for the general benefit of the stockholders, including the state, a sum equal to four per centum, upon such part of the said stock as shall not have been actually paid for by the state on the day when the dividend is declared, out of which the retainer is made.

Charter extended, in case the bank takes up the paper currency.

2. And as an additional consideration on which to engage the agency of the bank in the redemption of the paper money of the state, *Be it further enacted*, that on condition the president and directors of the said bank shall take up and entirely withdraw from circulation, in the manner herein after prescribed, the whole of the paper money issued by the state, by virtue of the acts passed for the purpose in the year one thousand seven hundred and eighty-three, and one thousand seven hundred and eighty-five, on or before the eighteenth day of December one thousand eight hundred and seventeen, and not permit the same, nor any part thereof to return again into circulation, after having once been in their possession, either by payments made, or to be made on account of the fourth instalment of the capital stock of the said bank, or in any other manner whatever; it is hereby declared that the charter of incorporation of the said bank shall be extended until the first day of January which shall happen in the year one thousand eight hundred and thirty-five, upon the same terms as the said charter is now held, and with the same engagement on the part of the state that no other bank shall be established by any future law of the state during the term of this extension; and the faith of the state is hereby pledged, as a further consideration for the said redemption, that no tax nor imposition shall be laid on the capital stock of the said bank, nor on the dividends to be declared thereon.

No other bank shall be established during this extension, and no tax laid on the stock or dividends.

3. *And be it further enacted*, That in order to the complete performance of the condition on which the grant and exemption in the next preceding section are made in favor of the stockholders of the said bank, it shall be the duty of the president and directors of the said bank to cause public notice to be given by advertisement in all the papers published in the city of Raleigh, for six weeks next immediately preceding the eighteenth day of December, in the year one thousand

eight hundred and sixteen, that they will for the term of one year, commencing on that day and following next thereafter, take up and exchange all the paper currency of the state which shall be presented for the purpose of being taken up and exchanged, at the principal bank or any of its branches, by giving in exchange therefor in the notes of the said bank, or gold or silver, at the option of the holder of the paper money, the full sum to which the paper money so to be presented shall amount after the rate of one dollar for ten shillings of the said paper money: And it shall further be the duty of the said president and directors, actually to take up all the paper money of the state, which shall within the said term of one year be presented for exchange as aforesaid, and to give in exchange therefor, in the notes of the said bank, or in gold or silver, at the option of the holder of the paper money, after the rate of one dollar for ten shillings of the money to be presented for exchange as aforesaid; and upon its being made to appear to the satisfaction of the governor of the state, by the said president and directors, at any time within six months after the eighteenth day of December, which shall happen in the year one thousand eight hundred and seventeen, that the said president and directors have faithfully complied with the preceding terms, and have given the required notices, at the times and in the manner above prescribed, and have actually exchanged for and taken in, all the paper money of the state, which shall have been presented to the said bank, or any of its branches, in pursuance of the notices above prescribed, and faithfully paid therefor, in the manner and after the rate also above prescribed, it shall be lawful for the governor of the state, to make known the same by proclamation, and in the said proclamation to declare, that the said paper money shall thenceforward cease to be a tender: And it is hereby further declared, that on the date of the said proclamation, the said paper money shall cease to be a tender in all cases whatever, except in payments to be thereafter made to the said State Bank of North-Carolina—in all which payments to the said bank, it is hereby declared it shall thereafter be a tender; and when received by the said bank, shall not again return into circulation by any means whatever, but remain in its vaults until redeemed and destroyed in the manner hereinafter prescribed: *Pro-*

Paper money to be redeemed by the bank.

Governor to make proclamation that paper money will cease to be a tender, except to the bank, after A. D. 1817

Proviso in case
of failure.

vided always, that if the fund established for the redemption of the said paper money, shall not effect the entire redemption thereof before the charter of the said bank shall expire, or by common consent of the stockholders, or otherwise, be dissolved, then and in that case, the said paper money shall again be considered as a tender in all payments whatever as heretofore.

Dividends ac-
cruing to the
state, applied to
the redemption
of the paper
money.

4. *And be it further enacted*, That the dividends accruing upon the whole sum reserved and held by the state, in the stock of the said bank, after deducting therefrom four per centum per annum, on the amount of the said stock, not paid for by the state, (in the manner prescribed in the first section of this act,) shall invariably and from time to time, as the said dividends shall be declared and paid, be applied to the redemption of the paper money remaining in the vaults of the bank; which paper money, when so redeemed and actually paid over to the state, or its agent, the public treasurer, shall by the said treasurer, in the presence of the comptroller and secretary of state, and also in the presence of the president of the bank, be burnt and destroyed.

Books to be
opened for fur-
ther subscrip-
tions.

5. *And be it further enacted*, That the president and directors of the State Bank of North-Carolina, at such time or times as shall be convenient to them, and under the direction of such persons as they may appoint, shall cause books to be opened, at all or any of the places where, by the act of incorporation, books were directed to be opened, for the purpose of receiving further subscriptions to the capital stock of the said bank; and if subscriptions shall not have been made to the full amount of said capital stock, previous to the first day of January, one thousand eight hundred and twenty, then and in that case, it shall be the duty of the said president and directors, forthwith to cause books to be again opened as aforesaid, for the purpose of receiving subscriptions to the capital stock of the said bank, to the full amount authorised by their charter; which books shall be kept open six months, or until the whole of the said stock shall be subscribed: And if it shall happen, when the books shall be opened as aforesaid, that a greater sum shall be subscribed at any place than is permitted by the charter to be employed at such place, it shall be lawful for the president and directors to reduce such subscriptions, according to a scale by them to be established for the purpose.

6. *And be it further enacted,* That in addition to the number of directors required for the principal bank, by the act to which this is an addition, the public treasurer of the state shall, *ex officio*, be a director of the principal bank.

Public treasurer appointed a director.

7. *And be it further enacted,* That if any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting, any bill or note, in imitation of, or purporting to be a bill or note issued by order of the president and directors of the State Bank of North-Carolina, or any order or check on the said bank or corporation, or any cashier thereof, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering, any bill or note issued by order of the president and directors of the State Bank of North-Carolina, or any order or check on the said bank or corporation, or any cashier thereof; or shall pass, utter or publish, or attempt to pass, utter or publish, as true, any false, forged or counterfeited bill or note, purporting to be a bill or note issued by order of the president and directors of the State Bank of North-Carolina, or any false, forged or counterfeited order or check upon the said bank or corporation, or any cashier thereof, knowing the same to be falsely forged or counterfeited; or shall pass, utter or publish, or attempt to pass, utter or publish, as true, any falsely altered bill or note, issued by order of the president and directors of the State Bank of North-Carolina, or any falsely altered order or check on the said bank or corporation, or any cashier thereof, knowing the same to be falsely altered with intention to defraud the said corporation or any other body politic or person, every such person shall be deemed and adjudged guilty of felony; and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept to hard labour for a period not less than three years, nor more than ten years; or shall be imprisoned not exceeding ten years, and fined not exceeding five thousand dollars: and the operation of this section shall be without limitation of time.

Punishment for counterfeiting or altering or passing or attempting to pass notes or checks.

(See 1819, c. 994.)

8. *And be it further enacted,* That this act shall take effect and be in force from and after the passing thereof

CHAP. 807.

(a See 1810, c. 790, 1813, c. 852.) An act to amend an act, entitled "An act to regulate the inspection of flour in this state," passed in the year one thousand eight hundred and ten.(a)

Owners of flour permitted to have it re-examined.

1. *Be it enacted, &c.* That whenever any person may think himself aggrieved by the improper decision of any inspector of flour within this state, it shall be lawful for the owner thereof, or his agent, to secure it for further examination, which examination he shall cause to be made within sixty days thereof, by applying to a justice of the peace, whose duty it shall be to issue a warrant directed to three indifferent persons well skilled in the manufacture of flour; one of whom shall be named by the owner or possessor of the flour, one by the inspector, and the third by the magistrate; which said three persons, having first taken the oath or affirmation in the before recited act, directed to be taken by the inspector, shall proceed carefully to view and examine the said flour; and if they, or any two of them, shall differ in opinion with the inspector, as to the quality of said flour, it shall be the duty of the inspector to brand and mark the same according to their judgment, and moreover shall pay all costs attending the said examination; but if they shall be of opinion that the judgment of the inspector is correct, the owner or possessor of said flour shall pay costs.

Who shall pay the cost of re-examining.

Inspector authorised to appoint assistants in certain cases.

2. *And be it further enacted,* That if the quantity of flour brought to any place of inspection within this state, should at any time be so great that the inspector cannot examine the same with sufficient dispatch; or if by reason of sickness he should be incapable of discharging the duties of his office, in such cases it shall be lawful for him to appoint one or more persons of good repute and skill in the quality of flour, to assist him in the execution of his office: such assistants having taken the oath or affirmation prescribed by the before recited act, shall be authorised to inspect and brand flour in the same manner as the inspector himself might do; *Provided,* That the said inspector shall be liable for all misconduct in office of his said deputies, and for costs in case of appeal as aforesaid.

Penalty of \$5 each barrel for exporting un-inspected flour.

3. *And be it further enacted,* That if any master, owner or commander of any ship, vessel, boat or craft, shall receive any barrel or barrels of flour on board his ship, vessel, boat or craft, for exportation or transpor-

tation from one town or port, being a place of inspection, to another, which is not inspected, approved and branded, as in the said act is directed, shall forfeit and pay the sum of five dollars for each and every cask so received, recoverable in an action of debt before any jurisdiction having cognizance thereof, to the use of the person suing for the same.

4. *And be it further enacted*, That any cask of flour which has been inspected and branded at any one place of inspection in this state, shall not be subject to re-examination or inspection in another, unless after such inspection it shall have remained for the space of sixty days before it is exported; and in all cases, the certificate of the inspector shall be conclusive evidence of the time when the flour was inspected. Re-inspection.

5. *And be it further enacted*, That no inspector of flour within this state, or their deputies, shall directly or indirectly vend, barter, sell, exchange or trade in flour, bread, or other articles made of flour, under the penalty of one hundred pounds, to be recovered by action of debt, bill, plaint or information, by any person who will sue for the same to effect in any court of record in this state, the one half to the use of the person so suing, and the other half to be paid to the treasurer of the state for public use: and every person or persons so offending and thereof convicted, shall be, and they are hereby disabled from acting thereafter in their respective offices. Inspectors not to trade in flour. Penalty 100 pounds.

6. *And be it further enacted*, That the county courts^(a) in the several counties in this state, from which flour is or may be hereafter exported, are hereby authorised and empowered to appoint inspectors of flour for exportation: and said inspectors so appointed, shall be governed by the same rules and regulations, and subject to the same penalties as other inspectors of flour are by law. (a See 1793, c. 386.)
County courts to appoint inspectors.

CHAP. 808.

An act further to regulate the Supreme Court.^(b)

1. *Be it enacted, &c.* That it shall not hereafter be lawful for the clerk of the supreme court to make any The clerk not permitted to

^(b) See 1799, c. 520, 1801, c. 576, 1804, c. 660, 1805, c. 674, 1806, c. 693, 1808, c. 742, 1810, c. 785, 1812, c. 829, 1813, c. 851, 1818, c. 962 and 963.)

make entry on the records, or give certificate or issue execution, until he receives a written opinion from the court.

entry upon the records of the said court, that any cause depending therein is decided; nor to give to any person or persons whatever, any certificate of such decision; nor to issue execution for the cost in any such suit, until after the chief-justice, or some judge or judges, members of the said court, shall have delivered publicly and in open court, the opinion of the said court, stating at length the ground and argument upon which such opinion shall be founded and supported, and shall have also delivered a written copy of the same opinion to the clerk, which shall afterwards be filed among the records of the said court and published in the reports heretofore directed by law to be published, of the decisions made by the said court.

2d sec. of former act repealed.

2. *Be it further enacted*, That the second section of an act passed in the year one thousand eight hundred and eight, entitled “An act to amend the several acts now in force relative to the supreme court,” be, and the same is hereby repealed and made void.

CHAP. 809.

An act to regulate the proceedings on presentments or indictments, in the superior courts of law of this state.

Preamble.

Whereas exceptions, in themselves merely formal, are frequently taken against bills of indictment or presentment, and they are either quashed or judgment arrested; in consequence of which, the execution of justice is delayed, and many offenders escape punishment: For remedy whereof,

Bills of indictment in the superior courts not to be quashed for informalities, &c.

Be it enacted, &c. That from and after the first day of March next, in all criminal prosecutions, which may be had by indictment or presentment, in any of the superior courts of law, it shall be sufficient to all intents and purposes, that the bill shall contain the charge against the criminal, expressed in a plain, intelligible and explicit manner; and that no bill of indictment or presentment shall be quashed, or judgment arrested, for or by reason of any informalities or refinements, when there appears to the court sufficient in the face of the indictment to induce them to proceed to judgment.

CHAP. 810.

An act in addition to an act, passed at the last session of the General Assembly, entitled "An act to revive and continue in force an act passed at Raleigh in the year one thousand eight hundred and three, entitled, An act for establishing a Mutual Insurance Society against fire on buildings, goods and furniture in this state." (See 1803, c. 630, 1804, c. 656, 1810, c. 789.)

Whereas by the above recited act, it is made necessary before the proposed Mutual Insurance Society shall be organized and go into operation, that there shall be received by the commissioners appointed for the several counties in the state, proposals for insuring a sum exceeding two hundred thousand dollars: And whereas though the subscription at present falls short of that sum, it is represented to this General Assembly, that it might be attended with good effects to the citizens of this state, to carry the said society into effect with the present subscriptions, and such others as may hereafter be made thereto : Preamble.

Be it enacted, &c. That William Boylan, Joseph Gales, and William Glendinning, commissioners appointed by the act aforesaid for the county of Wake, for receiving subscriptions to the said Mutual Insurance Society, be and they are hereby authorised to call a meeting by public advertisement in the Raleigh newspapers of the present subscribers to the said Mutual Insurance Society, and of such others as may hereafter become subscribers thereto, for the purpose of forming a constitution and of organising the said society, agreeably to the provisions of the act aforesaid, passed in the year one thousand eight hundred and three, and to an act passed in the year one thousand eight hundred and four, amendatory of the said act, on such day or days, and at such place in the city of Raleigh, as they may deem most convenient; and that such constitution and organization shall be in all respects as valid as if the same had been made at the time and in the manner prescribed by the above mentioned acts; any thing to the contrary notwithstanding. Commissioners authorised to call a meeting of subscribers in order to form a constitution.

CHAP. 811.

(a See 1790, c. 319.) An act to amend the several acts of the General Assembly of this state, which prevents any person from holding or exercising any office or appointment under the authority of this state, who holds any office or appointment under the authority of the United States.(a)

Justices of the peace and militia officers may hold civil offices under the authority of the United States.

Be it enacted, &c. That from and after the passing of this act, it shall and may be lawful for any justice of the peace, or any officer of the militia of this state, who now is or may be hereafter appointed, to accept and exercise any civil office or appointment of profit or trust, under the authority of the United States, the duties of which appointment shall be confined to this state; any law to the contrary notwithstanding.

CHAP. 812.

(a See 1784, c. 206.) An act to amend an act, entitled, "An act to prevent the exportation of unmerchable commodities," passed in the year one thousand seven hundred and eighty-four.(a)

Inspectors of ton timber to be appointed by the county courts.

1. *Be it enacted, &c.* That the justices of the county courts of pleas and quarter sessions, in and for the several counties recited in the before mentioned act, are hereby authorised and required to nominate and appoint in open court, one or more fit and proper person or persons residing in said county, to inspect the article of ton timber; and every inspector so appointed, before he enters upon or executes his office, shall enter into bond with good and sufficient security, under the same rules, penalties, regulations and restrictions, as are laid down in the before recited act, and shall be entitled for his services to the sum of ten cents per ton.

Penalty for officiating without appointment.

2. *And be it further enacted,* That if any person shall officiate as inspector of any article mentioned in said act, without being legally qualified, he shall for every offence forfeit and pay the sum of thirty pounds, to be recovered before any jurisdiction having cognizance thereof, to the use of the county in which such person resides.

3. *And be it further enacted,* That this act shall be in force from and after the passing thereof.

CHAP. 813.

An act more effectually to compel collectors of taxes to account for monies by them received in that capacity.

1. *Be it enacted, &c.* That deputy-sheriffs and all other persons that shall hereafter be employed by the sheriff of any county in this state to collect the public, county and parish taxes, shall, *before* they enter on the collection of either of the aforesaid taxes, take an oath in open court, or before any two justices of the peace of the county where such deputy-sheriff or collector may reside, faithfully and honestly to account for all monies that shall or may be received by them in the capacity of collectors.

Deputy sheriffs and all other collectors of taxes to take an oath before they shall commence collecting.

CHAP. 814.

An act to provide for the punishment of persons guilty of certain offences therein mentioned.

1. *Be it enacted, &c.* That from and after the passing of this act, if any person or persons shall feloniously steal, take and carry away, or take by robbery, any bank note, check or order for the payment of money, issued by or drawn on any bank or other society or corporation within this state, or within any of the United States; or any treasury warrant, debenture, certificate of stock or other public security; or any order, bill of exchange, bond, promissory note or other obligation either for the payment of money or for the delivery of specific articles, being the property of any other person or persons or of any corporation, (notwithstanding any of the said particulars may be termed in law a chose in action,) such felonious stealing, taking and carrying away or taking by robbery, shall be deemed and construed to be felony of the same nature and in the same degree, and with or without benefit of clergy, in the same manner as it would have been if the offender or offenders had feloniously stolen or taken by robbery, money, goods or property of like value with the money or specific articles due or expressed on the face of such bank note, check, order, treasury warrant, debenture, certificate of stock, public security, order, bill of exchange, bond, promissory note, or other

Stealing of bank or promissory notes made felony.

obligation as aforesaid, or secured thereby and remaining unsatisfied: And such offender or offenders, for each and every such offence, being thereof legally convicted, shall suffer such punishment and be subject to the same pains, penalties and disabilities, as he, she or they should or might have suffered, if such offender or offenders had feloniously stolen or taken by robbery, money, goods or other property of the like value with the money or specific articles due or expressed on the face of such bank note, check, order, treasury warrant, debenture, certificate of stock, public security, bill of exchange, bond, promissory note, or other obligation respectively or secured thereby and remaining unsatisfied; any law, usage or custom to the contrary notwithstanding.

Passing forged notes, checks, &c. deemed a fraud.

2. *And be it further enacted*, That from and after the passing of this act, if any person or persons shall knowingly and designedly, by means of any forged or counterfeit paper, in writing or in print, or by any false token or other false pretence or pretences whatsoever, obtain from any person or persons, or corporation within this state, any money, goods, property or other thing of value, or any bank note, check, or order for the payment of money issued by or drawn on any bank or other society or corporation within this state, or any of the United States; or any treasury warrant, debenture, certificate of stock or other public security; or any order, bill of exchange, bond, promissory note, or other obligation either for the payment of money or for the delivery of specific articles, with intent to cheat or defraud any person or persons, or corporation of the same, shall be held and deemed guilty of fraud and deceit, and being thereof legally convicted in any court of competent jurisdiction, such offender or offenders shall be punished by fine and imprisonment not exceeding twelve months; putting in the pillory; public whipping not exceeding thirty-nine lashes on his or her bare back; all or any of them at the discretion of the court, due regard being had to the nature and circumstances of the offence.

Penalty.

Penalty for passing counterfeit gold or silver coin.

3. *Be it further enacted*, That from and after the passing of this act, if any person or persons shall make or cause to be made, any counterfeit similitude or likeness of a Spanish milled dollar, English guinea, or any foreign coin of gold or silver, which is in common use and received in the discharge of contracts by the citizens of

this state, or shall utter or pass the same, knowing it to be counterfeit, and shall be legally convicted of either of the said offences in any superior court of law of this state, the person or persons so found guilty, shall on the first conviction, receive thirty-nine lashes on his or her bare back, and on the second conviction of the above described offences, or either of them, shall receive thirty-nine lashes on his or her bare back, and be imprisoned for a length of time not exceeding twelve months, and be branded in the right cheek with the letter C.

4. *And be it further enacted*, That from and after the passing of this act, if any person or persons shall have in his or their possession, any instrument or instruments for the purpose of making any counterfeit similitude or likeness of a Spanish milled dollar, English guinea, or other foreign coin, made of gold or silver, which is in common use and received in the discharge of contracts by the citizens of this state, and shall be duly convicted thereof in any superior court of law of this state, the person or persons so offending, shall receive thirty-nine lashes on his or their bare back, and be further liable to be fined at the discretion of the court, in the sum of five hundred dollars, and be imprisoned not more than twelve months.

Punishment for having in possession instruments for making counterfeit money.

CHAP. 815.

An act to ratify on behalf of the state of North Carolina, a proposed amendment of the constitution of the United States, relative to titles of nobility or honor, presents, pensions, offices or emoluments from any foreign power.

This amendment has not been adopted by three-fourths of the states.

Be it enacted, &c. That the following amendment of the constitution of the United States, proposed by the Congress of the United States, in the manner prescribed by the fifth article of the constitution, viz: "If any citizen of the United States shall accept, claim, receive or retain any title of nobility or honor, or shall, without the consent of Congress, accept and retain any present, pension, office or emolument of any kind whatsoever, from any emperor, king, prince or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them or either of them," be, and the same is hereby ratified on behalf of the state of

Amendment to the constitution of the United States, preventing citizens from accepting titles of nobility, &c.

North-Carolina, to become when ratified by the legislatures of three-fourths of the several states, part of the constitution of the United States.

CHAP. 816.

An act to make the stealing of standing or growing corn, maize, cotton and rice, larceny.

stealing standing corn, &c. made larceny.

Be it enacted, &c. That the stealing or feloniously taking and carrying away any growing, standing or ungathered corn or maize, cotton or rice, shall hereafter be held and deemed larceny; and every person who shall hereafter steal or feloniously take, pluck, sever and carry away, any corn, maize, cotton or rice, growing, standing or remaining ungathered in any plantation, field or other ground, shall on conviction thereof be deemed guilty of larceny, and suffer punishment as in other cases of larceny.

CHAP. 817.

(a) The U. S. Supreme Court has decided this act to be unconstitutional, Jan. 1818, in the case of *Burton v. Williams*. See also a report and resolution of the General Assembly of this state, 1818.)

Preamble.

An act making further provisions for perfecting titles to land within the state of Tennessee. (a)

Whereas by the act of this legislature, passed in the year one thousand eight hundred and three, entitled, "An act to authorise the state of Tennessee to perfect titles to land reserved to this state by the cession act," authority was given by this state, upon condition Congress would assent thereto, to the state of Tennessee to perfect titles to the land lying in that state and reserved to North-Carolina by the said act of cession, under certain limitations: And whereas Congress in giving their assent to the said act by an act passed on the eighteenth of April, in the year one thousand eight hundred and six, entitled "An act to authorise the state of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to vacant and unappropriated lands within the same," restrained the exercise of the authority yielded by North-Carolina to Tennessee, to the territory lying on the north and east side of the following line, that is to say: Beginning at the place where the eastern or main branch of Elk river

shall intersect the southern boundary line of the state of Tennessee, from thence running due north until the said line shall intersect the northern or main branch of Duck river, thence down the waters of Duck river to the military boundary line, as established by the seventh section of an act of the state of North-Carolina, entitled, "An act for the relief of the officers and soldiers of the continental line, and for other purposes," (passed in the year one thousand seven hundred and eighty-three;) thence with the military boundary line west to the place where it intersects the river Tennessee; thence down the waters of the river Tennessee to the place where the same intersects the northern boundary line of the state of Tennessee;—and it has thereby become the duty of North-Carolina in order that justice may be done to the fair claimants under her, to appoint a surveyor of the lands lying south and west of the said line:

1. *Be it therefore enacted, &c.* That the proper officers of this state shall proceed to perfect titles to all or any part of the land lying south and west of the above described line, for which surveys shall be returned by General Thomas Love, who has been appointed surveyor of the said land, or by any other surveyor to be hereafter appointed by this state for the purpose of surveying the said land.

Officers of this state to proceed to perfect titles.

A surveyor appointed who shall make returns, &c.

2. *And be it further enacted,* That no assent that may hereafter be given by Congress to the provisions of the act of this General Assembly above recited, passed in the year one thousand eight hundred and three, shall be considered as interfering with this act, or the titles to be perfected under the same.

Assent of Congress not to interfere with this act.

CHAP. 818.

An act directing to whom the secretary of state shall issue military land warrants, and for other purposes.

(See 1807, c. 715, 1819, c. 992.)

1. *Be it enacted, &c.* That it shall not hereafter be lawful for the secretary of state to issue any military land warrant except under the following restrictions: 1st. Any person claiming a military land warrant in his own right, shall produce at least one deposition shewing that he is the person entitled to such warrant, together with the certificate of two justices of the peace

Warrants not to be issued except proper credentials are produced.

that the deponent is a person of credit; and also the certificate of the clerk of the court of pleas and quarter sessions of the county where such justices reside, certifying that they are acting justices, with the seal of the court annexed. 2d. When application is made on behalf of any person claiming to be entitled to a military land warrant, the person so applying, shall, in addition to the evidence above mentioned, also produce a power of attorney from the claimant or claimants, acknowledged by him or them in some court of record, or proven by two witnesses at least, with the seal of the court annexed; a copy of which shall be filed in the clerk's office, for which the said clerk shall receive the sum of ten shillings.

Guardians must
produce certificates.

2. *And be it further enacted*, That whenever a guardian shall apply for a military land warrant, to which his ward may be entitled, he shall produce from the proper records, a certified copy of his appointment as guardian, signed by the clerk of the court wherein he was appointed, with the seal of the court annexed.

3. *And be it further enacted*, That this act shall be in force from and after the passing thereof.

CHAP. 819.

(a See 1796, c.
455, s. 5.)

An act to amend the fifth section of an act, passed anno domini seventeen hundred and ninety-six, entitled "An act to remedy certain inconveniences under the present land laws." (a)

Preamble.

Whereas it is provided by the before recited act, that every person claiming lands in either of the counties of Wilkes, Burke or Buncombe, under colour of an entry made in Washington or Greene, shall, previous to the making of a survey thereof, produce to the court of the county in which the land lieth, a majority of the justices being present, his warrant, and make it appear by his own oath, and other testimony where it can be procured, that the purchase-money for the land claimed, hath been paid to the entry-taker, and thereupon the warrant shall be countersigned by the clerk, and thereafter be held a good warrant: And whereas it hath so happened in many instances, that the original claimants are now dead, and of course the requisites of said act cannot be literally complied with. For remedy whereof,

Be it enacted, &c. That from and after the passage of this act, it shall be sufficient in all cases when the before recited original claimants are dead, for their representatives to prove the payment of the purchase-money, by the oath of one or more credible persons; any thing in the before recited act to the contrary notwithstanding.

Proof of the payment of the purchase money shall be sufficient.

CHAP. 820.

An act to fix the age at which persons shall be capable of disposing of chattels by will.

Be it enacted, &c. That from and after the passage of this act, no person shall be capable of disposing of chattels by will, until he or she shall have attained the age of eighteen years. This act shall be in force from and after the passage thereof.

Capable at 18 years of age.

CHAP. 821.

An act declaring that stills shall be considered as personal estate.

Whereas it has been represented to this General Assembly, that doubts have arisen in some cases, whether stills erected for the purpose of distilling spirits, should be considered as real or personal estate. For removing such doubts,

Preamble.

Be it enacted, &c. That stills erected for the purpose of distilling spirits, shall hereafter be considered as personal estate, to all intents and purposes.

Stills made personal property.

CHAP. 822.

An act to regulate the collection of clerks and sheriffs fees.

Whereas by the existing laws(*a*) the clerks of the several courts of record, sheriffs, and other officers, are permitted to collect fees due to them upon judgments, rendered at any length of time after the same have accrued: and whereas it frequently happens that improvident persons are compelled to pay the same fees twice, in having by length of time lost all evidence of former payments. For remedy thereof,

(*a* See 1784, c. 223.)

Preamble

Fees to be collected or suits commenced in 3 years.

An exception.

Be it enacted, &c. That from and after the passing of this act, all fees which now are or hereafter may become due to the clerk of any court of record within this state, or to any sheriff or other officer, by sentence, judgment or decree of any court aforesaid, the same shall be collected or suit commenced therefor, within three years from the passing of this act, or within three years from the time of such judgment rendered, without an execution issued thereon, or within three years from the issuing of the last execution and not after: *Provided nevertheless*, That this act shall not extend to fees which may be due and owing from persons residing out of this state; any law, usage or custom to the contrary notwithstanding.

CHAP. 823.

(See 1798, c. 509.)

An act more effectually to compel the sheriffs of the several counties within this state to account with the wardens of the poor and treasurer of their respective counties, for taxes on unlisted property.

Sheriffs to account for taxes on unlisted property.

Be it enacted, &c. That from and after the ratification of this act, it shall be the duty of the sheriffs in the several counties in this state, and they are hereby required to settle with the wardens of the poor and the treasurer of their respective counties, for the taxes on the unlisted property in their said counties, under the same rules, regulations and restrictions, as the said sheriffs are bound by law to account with the comptroller^(a) of this state; any law, usage or custom to the contrary notwithstanding.

(^a See 1787, c. 269, s. 1.)

CHAP. 824.

(^b See 1792, c. 361.)

An act to amend an act, passed in the year one thousand seven hundred and ninety-two, entitled "An act to compel certain officers therein mentioned, to publish the application of the public monies and allowances for insolvents," so far as regards county trustees.^(b)

Preamble.

Whereas by the provisions of the before recited act, no more than two hundred pounds can be recovered of any county trustee, who may fail to account for the monies in his hands, when a much greater sum is in many instances received by persons acting in that capacity. For remedy whereof,

1. *Be it enacted, &c.* That it shall be the duty of justices of the peace, composing the court of pleas and quarter sessions in the several counties of this state, at the annual election of a county trustee, to compel said trustee at the time of his appointment, to enter into bond with security to the chairman of the court, in such sum as the court may think sufficient to cover all monies which may be paid to the said trustee for the use of the county.

County trustee required to give bond for as much as he may probably receive.

2. *And be it further enacted,* That if any trustee thus appointed, shall fail or neglect to enter into bond as before directed, his appointment shall be void, and the court may proceed to a new election: *Provided,* that this act shall not extend to the county of Rutherford.

Appointment to be void in case of failure to give bond.

3. *And be it further enacted,* That all acts and clauses of acts, coming within the meaning and purview of this act, are hereby repealed and made void.

Former acts repealed.

CHAP. 825.

An act to revive and continue in force an act passed in the year one thousand eight hundred and eight, entitled "An act to amend an act, passed in the year one thousand eight hundred and four, entitled 'An act to revive and continue in force the acts and clauses of acts heretofore passed, declaring certain entries lapsed, notwithstanding the purchase money may have been paid, in case they are not surveyed and returned into the secretary's office within a limited time.'*(a)*

(a See 1808, c. 753, 1810, c. 804, 1814, c. 868.)

1. *Be it enacted, &c.* That all *bona fide* entries of land in this state, which have been paid for as by law directed, shall have until the first day of December, one thousand eight hundred and thirteen, for surveys to be made and returned into the secretary's office.

Time for making surveys extended to Dec. 1813.

2. *And be it further enacted,* That this act shall be in force from the ratification hereof.

CHAP. 826.

An act to alter the line between the counties of Surry and Stokes.

Be it enacted, &c. That after the county line intersects the southern boundary of the lands formerly belonging to Samuel Kirby, senior, now Joseph Wilson, it shall run thence along the southern and western

Dividing line between Surry and Stokes.

boundaries of said land, to the Yadkin River; thence up the river until it intersects the present line between the two counties.

CHAP. 827.

An act to annex part of Brunswick county to the county of Columbus.

Part of Brunswick added to Columbus.

Be it enacted, &c. That from and after the passing of this act, all that part of Brunswick county bounded as follows, to wit: beginning at Waccamaw River, at the mouth of Juniper Creek, on the Columbus line, and running up Juniper Creek to a swamp called Big Swamp, and up the Big Swamp to a branch called Clear Branch, and up the Clear Branch to the head; thence a direct course to the Waccamaw River, at the mouth of a large creek, and thence join the Columbus line or river to the beginning, be, and the same is hereby annexed to the county of Columbus.

Read three times, and ratified in General Assembly, }
the 23d day of December, A. D. 1811. }

J. RIDDICK, S. S.
J. STEELE, S. H. C.

A Copy.—WM. HILL, Secretary.

Wm. Hawkins,
Esq. governor.

At a General Assembly, begun and held at Raleigh, on the sixteenth day of November, in the year of our Lord one thousand eight hundred and twelve, and in the thirty-seventh year of the independence of said state.

CHAP. 828.

An act to amend the militia laws of this state.(a)

Free negroes
and mulattoes
excluded from
mustering, ex-
cept musicians.

1. *Be it enacted, &c.* That it shall not be lawful for the captain or commanding officer of any company of militia to enrol any free negro or mulatto in his company: (b) *Provided always*, that it shall and may be lawful at all times to enrol a sufficient number of such in any militia company as musicians.

(a See 1807, c. 732 & 733, 1808, c. 749, 1813, c. 850, 1814, c. 867.)
(b Altered by 1814, c. 867, s. 1.)

2. *Be it further enacted,* That no captain, lieutenant, or ensign of any militia company in this state appointed and commissioned by his own consent, shall resign his appointment unless in case of sickness, bodily infirmity or removal out of the bounds of the company for which he was appointed, until he shall have fulfilled the duties of his said appointment for the space of three years: And if any commissioned officer in the militia of this state now appointed, or who may hereafter be appointed, shall fail to equip himself according to law within twelve months from the passing of this act, or within the like space from the time of his appointment, such officer so failing shall forfeit his appointment and commission on a conviction for the same before a court martial, and be rendered incapable of holding or exercising any military office under the authority of this state for the term of five years thereafter: And if any commissioned officer hereafter appointed shall resign within twelve months after his appointment, without having equipped himself according to law, he shall, if a general officer, forfeit and pay the sum of fifty pounds, to be applied to the use of the division or brigade, as the case may be, to which such officer belongs; if a colonel commandant, the sum of twenty-five pounds; if a major, the sum of fifteen pounds; if a captain, the sum of ten pounds; if a lieutenant, the sum of five pounds; if an ensign, the sum of fifty shillings, to be sued for and recovered by the adjutant of each regiment in the name of the governor, to the use of the regiment; and the forfeitures incurred by the general officers for breach of this act, shall be sued for in the name of the governor by the adjutant-general.

Officers compelled to hold their appointments 3 years.

Commissioned officers required to be equipped in one year.

Penalty.

3. *Be it further enacted,* That if any person shall wickedly, wilfully and corruptly swear falsely before any court martial touching and concerning any matter or thing cognizable before such court martial, he shall on conviction thereof be liable to the pains and penalties of perjury; and in all cases to delinquents and witnesses, oaths and affirmations shall be administered by the judge-advocate or presiding officer in such courts martial.

Perjury punishable.

4. *Be it further enacted,* That it shall be the duty of each and every commanding officer of the several regiments of militia of this state to exact and enforce regular settlements of all fines collected under the militia

The collection and appropriation of fines.

Fines to be reported every six months.

And ca. sa's to issue.

Governor to prescribe the uniforms.

And commission aids.

Governor's private secretary and gun-smiths exempt from mustering.

Drafted militia may furnish substitutes.

How vacancies are to be filled in certain cases.

laws from the several officers charged with the collection thereof, which fines shall be appropriated as heretofore directed by law; and if there be any surplus it shall be laid out in the improvement of military music attached to their respective regiments: And it shall be the duty of each captain or commanding officer of a company to report in writing, once in every six months to the commanding officer of the regiment to which he belongs, the amount of fines assessed in his company within that period.

5. *Be it further enacted*, That hereafter it shall and may be lawful to issue executions against the persons of all delinquents for fines assessed against them in the same manner as other writs of *capias ad satisfaciendum* are issued.

6. *And be it further enacted*, That the governor for the time being shall have power to prescribe the uniform to be worn by the general and field officers of the militia of this state, and he shall moreover grant commissions to the several aids-de-camp, appointed by the major-generals and brigadier-generals of the militia of this state, to be held during the pleasure of such general officers, to whom such aids-de-camp may be attached.

7. *And be it further enacted*, That the private secretaries to the governors of this state, be and they are hereby exempt from military duty, except in case of invasion or insurrection: *Provided always*, and it is hereby enacted, that it shall be in the power of the several courts martial within each regiment (except in time of insurrection or invasion) to exempt from military duty, all well taught gun-smiths, who shall follow and prosecute the business of a gun-smith professionally.

8. *And be it further enacted*, That it shall be the duty of each captain or commanding officer of a company of militia detached as part of the requisition under the authority of the United States, to receive and enrol in the place and stead of any person drafted to serve in such company, any able bodied free white citizen to serve as a substitute for such person so drafted.

9. *And be it further enacted*, That if any commissioned officer under the grade of a field officer, appointed to command in any detachment from this state, under the authority of the United States, shall die, resign, or remove out of the regiment to which he belongs or may

belong, it shall be the duty of the colonel commandant of the regiment to which such officer belonged, to recommend a proper person resident within the bounds of such regiment, to be commissioned by the governor to fill such vacancy.

10. *And be it further enacted,* That the adjutant-general of this state, appointed or to be appointed by the governor, by virtue of the sixth section of the act of one thousand eight hundred and seven, entitled "An act to expedite the organization of the quota of militia required from this state," &c. shall be allowed the sum of two hundred dollars per annum for his services, besides expenses now allowed by law, to be paid half yearly by the public treasurer, by a warrant from the governor.

Adjutant-general's salary.

11. *Be it further enacted,* And it is hereby declared to be incompatible for any major-general, brigadier-general, or lieutenant colonel commandant, to act as adjutant-general of the militia of this state.

And those excluded from holding that office.

12. *And be it further enacted,* That no overseer of any road in this state, shall order the hands under him to work on the road on the days previously appointed for muster by the captain of the company to which such hands belong.

Overseers of roads.

13. *And be it further enacted,* That the rifle volunteers in the state shall not be compelled to pay a greater fine for non-attendance at their musters, than the militia of this state, any thing to the contrary notwithstanding.

Rifle volunteers

14. *And be it further enacted,* That for the encouragement of military music it shall and may be lawful for each captain of each and every militia company of infantry in this state, to select from among the persons enrolled in their respective companies, one fifer and one drummer, each being properly qualified for their appointment, which selection shall be made under the direction and with the approbation of the field officers belonging to the regiment to which such company is attached; and when such selection of musicians is made, it shall be the duty of the field officers to grant a certificate to such musicians of their appointment, and the county court of the county in which such companies respectively are, shall exempt and discharge such musicians so selected, during their continuance in appointment, from serving on all juries, from working on the public roads, and from the payment of poll taxes. Such

For the encouragement of military music.

musicians shall be removable at the pleasure of the field officers of the regiment to which they severally belong, and shall attend each and every muster of their respective companies, and also the musters of the officers, and perform the duties of their appointment, under the penalty of forty shillings for each and every neglect, to be collected and applied in the same manner that other fines are.

CHAP. 829.

An act to amend the laws relative to the supreme court.(a)

(a See 1799,
c. 520, 1801,
c. 576, 1804,
c. 660, 1805,
c. 674, 1806,
c. 693, 1808,
c. 742, 1810,
c. 785, 1811,
c. 808, 1813,
c. 851, 1818,
c. 962 & 963.)

Clerk to record
in books cases &
opinions of the
judges.

Clerk's office to
be kept in Ra-
leigh, &c.

Whereas it is of importance to the state that the records of the supreme court should be preserved :

1. *Be it enacted, &c.* That it shall be the duty of the clerk of the supreme court to record in well bound books the papers in the several cases which have been or shall hereafter be decided in said court, with the opinions of the court thereon, and to have said books neatly lettered and numbered : and for this service he shall receive a compensation to be estimated by any three of the judges, for each term of the court, the cases of which are hereby directed to be recorded ; which compensation shall be paid by the treasurer upon the certificate of the said judges.

2. *Be it further enacted,* That the clerk's office of the supreme court shall hereafter be kept in the city of Raleigh, and in one of the rooms of the state-house, set apart for the secretary of state, and the judges are hereby authorized to hold the said court in the state-house, whenever they think proper to do it.

CHAP. 830.

An act concerning equitable interests in real and personal estate.

Trust property
subject to legal
execution.

1. *Be it enacted, &c.* That it shall and may be lawful for every sheriff or other officer to whom any writ or precept hereafter shall be directed, at the suit of any person or persons, of, for, or upon any judgment now had, or hereafter to be had, to do, make, and deliver execution unto the party in that behalf suing, of all

such goods and chattels, lands, tenements, rents and other hereditaments as any other person or persons, be in any manner of wise seised or possessed, or hereafter shall be seised or possessed in trust for him, her, or them, against whom execution shall be so sued, as the sheriff or other officer might or ought to have done, if the said party or parties against whom execution hereafter shall be sued, had been seised or possessed of such goods and chattels, lands, tenements, rents or other hereditaments of such estate as they be seised or possessed of in trust for him, her, or them at the time of the said execution sued; which goods and chattels, lands, tenements, rents or other hereditaments, by force and virtue of such execution, shall accordingly be held and enjoyed freed and discharged from all incumbrances of such person or persons, so seised or possessed in trust for the person or persons against whom such execution shall be sued; and if any *cestui que trust* hereafter shall die, leaving a trust in fee simple to descend or come to his or her heir, executor or administrator, then and in every such case such trust shall be deemed and taken, and is hereby declared to be legal assets in the hands of such heir, executor or administrator as the case may be, and such heir, executor or administrator shall be liable to and chargeable with the debts of his or her ancestor, testator, or intestate, for and by virtue of such assets as fully and amply as he, she, or they might or ought to have been if the estate at law had descended or come to him, her or them in possession in like manner as the trust descended.

Trust property, upon the death of *cestui que trust*, assets in the hands of his executors, &c.

2. *And be it further enacted*, That the equity of redemption in all lands, tenements, rents or other hereditaments which now are or hereafter shall be pledged or mortgaged, shall in like manner be liable to any execution or executions hereafter sued out on any judgment or judgments now had, or which hereafter shall be had, against the mortgagor or mortgagors; and such equity of redemption shall, in the hands of the heir or heirs of such mortgagor or mortgagors, be deemed and taken, and hereby is declared to be assets by descent; and the heir or heirs shall be liable and chargeable with the debts of his, her, or their ancestor to the extent and in the manner herein before declared.

Equity of redemption liable to execution.

3. *And be it further enacted*, That it shall be the duty of the sheriff, selling any lands, tenements, rents, or

Sheriff to set forth in deed that the lands were under mortgage.

other hereditaments, under any execution to him directed, to set forth in the deed to be made by him to the purchaser, or purchasers thereof, that the same lands, tenements and hereditaments, were under mortgage at the time of the levy on and sale of the same.

CHAP. 831.

An act for dividing the state into districts for electing representatives to Congress.

The state divided into 13 districts.

1. *Be it enacted, &c.* That this state shall be divided into thirteen districts as follows, to wit—the counties of Perquimons, Chowan, Currituck, Camden, Gates, Pasquotank and Hertford shall compose one district; the counties of Northampton, Bertie, Halifax and Martin shall compose the second district; the counties of Beaufort, Edgecombe, Hyde, Pitt, Tyrrel and Washington shall compose the third district; the counties of Lenoir, Craven, Jones, Carteret, Wayne, Greene and Johnston shall compose the fourth district; the counties of New-Hanover, Brunswick, Onslow, Duplin, Sampson, Bladen and Columbus shall compose the fifth district; the counties of Franklin, Granville, Warren and Nash shall compose the sixth district; the counties of Richmond, Anson, Moore, Cumberland, Robeson and Montgomery, shall compose the seventh district; the counties of Orange, Wake and Person shall compose the eighth district; the counties of Rockingham, Stokes, Guilford and Caswell shall compose the ninth district; the counties of Randolph, Rowan and Chatham shall compose the tenth district; the counties of Mecklenburg, Cabarrus and Lincoln shall compose the eleventh district; the counties of Burke, Rutherford, Haywood and Buncombe shall compose the twelfth district, and the counties of Wilkes, Surry, Iredell and Ashe shall compose the thirteenth district—Each of which districts shall be entitled to elect and send one representative to the Congress of the United States.

Each district entitled to one representative.

Elections to be held at the usual times and places.

2. *And be it further enacted,* That the election shall be held on the same days and at the same places as are now prescribed by law for holding elections for members to represent the several counties in the General Assembly of this state, in the year one thousand eight

hundred and thirteen, and at the same times and places every two years thereafter ; all of which elections are to be conducted by the sheriffs or by other persons legally appointed therefor, in like manner as the annual elections of the members of the state legislature, except that the inspectors of the election and clerks of the polls shall be sworn or affirmed to act with justice and impartiality, which oath may be administered by any justice of the peace or any other person thereunto authorised ; and that each qualified voter shall be admitted to give his suffrage only in the county wherein he resides.

Inspectors to be sworn.

3. *Be it further enacted*, That if any event shall happen to render the Meeting of Congress necessary after the third of March next, and before the time herein fixed for the ensuing election of representatives, or if after the expiration of any future congress and before the time fixed for the election then next to ensue, a new Congress shall be called, his excellency the governor, on receiving information to that effect, is hereby authorised to declare the same by proclamation, and to require the free men of this state to meet in their respective counties, at the time or times therein to be appointed, and at the places established by law, then and there to give their votes for representatives ; which elections so held in pursuance of the proclamation of the governor, shall be conducted in like manner, and to all intents and purposes shall be as legal and valid as if the same had been held at the time or times prescribed in the preceding section of this act.

The governor to alter the time of holding elections, if necessary.

4. *And be it further enacted*, That if any person whatsoever shall vote more than once in any election for a representative in Congress for his district, he shall forfeit and pay the sum of twenty pounds, to be recovered before a single justice of the peace ; one half to the use of the person suing for the same, and the other half to the use of the county in which the offence is committed. And in counties where separate places of election have been or shall be established by law, the elections directed by this act shall be conducted in the same manner as elections for members of the General Assembly heretofore had, each officer presiding at an election making return of the poll, which has been had before him, unto the sheriff or other returning officer of his county, at the court-house thereof, on or before the Monday immediately following the election.

Penalty for voting improperly.

Sheriff's duty.

Scrolls to be made out, and one filed in county court.

Whole number of votes received, taken, and 2 statements to be made—one filed in county court.

Where the polls are to be compared.

5. *And be it further enacted,* That immediately upon the close of the election in each county where there is but one place of election, the sheriff or other returning officer shall in the presence of the inspectors of the election, cast up the scrolls and make out two correct statements of the number of suffrages given in his county to each candidate; one of which statements shall be by the inspectors filed in the court of pleas and quarter sessions for said county, after the same is duly certified by the said returning officer, and a majority of the inspectors and the sheriff or other returning officer by himself or deputy, shall attend with the other on the day and at the places herein after mentioned: And in each county where separate elections are holden, the presiding officer at each place of election, shall immediately upon the close of the poll, in the presence of the inspectors, cast up the scrolls and make out two correct statements of the number of suffrages given thereat for each candidate; one of which statements shall be by the inspectors of said poll filed in the office of the clerk of the court of pleas and quarter sessions of the county, after the same has been duly certified by the said returning officer and a majority of the inspectors, and the other shall be delivered to the sheriff or other the returning officer of the county as prescribed in the preceding section; and the sheriff or other returning officer as aforesaid shall publicly, at the court-house aforesaid, ascertain by fair addition of the suffrages returned, the whole number received for each candidate in the county, and thereof shall make two statements under his hand, one of which he shall file in the office of the clerk of the court of pleas and quarter sessions of his county, and the other by himself or deputy shall attend on the day and at the place hereinafter mentioned.

6. *And be it further enacted,* That the sheriffs or other returning officers of the counties of each district shall meet on the Thursday next after each election, at the court-house of the county first mentioned in their respective districts: *Provided always,* That if any accident shall happen to either of the returning officers which may prevent any or either of them from meeting on the day aforesaid, the returns of each and every officer shall be received on the day following; and the sheriff or other returning officer failing to attend at the time and place above mentioned, shall forfeit and pay the sum of fifty pounds.

to be recovered for the use of the state, upon due proof thereof in any court of law within this state, by an action of debt in the name of the treasurer of the state, for the time being: And when the sheriffs or other returning officers shall be convened as aforesaid, the poll for the different counties shall by the said sheriffs or other returning officers, (as the case may be) in presence of three justices of the peace, who are to be summoned by the sheriff or other returning officer of the county where they shall meet for that purpose, be examined and compared, and a certificate under the hands and seals of said returning officers shall be given to the candidate in each district for whom the greatest number of votes shall have been given in said district: But if two or more candidates shall have an equal number of votes, the said returning officers shall determine which of them shall be the representative: and if no decision is by them made, then they shall decide the same by drawing in like manner as the Grand Jury is drawn for in the superior courts.

7. *And be it further enacted*, That each and every person who shall be duly elected a representative under this act, shall, upon obtaining a certificate of his election according to the direction above mentioned, obtain from his excellency the governor, a commission certifying his appointment as a representative of this state, which certificate the governor is hereby empowered and required, on such certificate being produced to him, to issue. Commissions to be granted.

8. *And be it further enacted*, That every sheriff or other the returning officer holding elections in pursuance of this act, shall be allowed the sum of twenty-five shillings for every thirty miles travelling to, and returning from the place of comparing the polls in the district; and the same sum for every day he shall necessarily attend for the purpose of comparing said polls; and also, the amount of his ferriages, which shall be paid by the treasurer on affidavit of the sheriff or returning officer aforesaid. Sheriff's allowance.

9. *And be it further enacted*, That in the event of the death or resignation of any representative or representatives of this state, in the present congress of the United States, the vacancy or vacancies so occasioned, shall be supplied by the suffrages of the electors from the same district by which the deceased or resigned representative was originally elected. How vacancies are to be filled.

CHAP. 832.

(a See 1802,
c. 609, 1803,
c. 627, s. 5.)

An act to authorise justices of the peace out of court to take security in certain cases.(a)

Ten days to be
allowed for giving
security.

1. *Be it enacted, &c.* That from and after the passing of this act, it shall be lawful for any justice of the peace out of court, when any trial is before him, and he gives judgment for any sum against any person who wishes either to appeal or stay the execution and is unprovided with securities upon the day of trial, to grant such person ten days to give approved securities for an appeal or stay of execution, as the case may be, and shall make an entry thereof upon the warrant: *Provided always*, that nothing in this act shall be construed so as to prevent the plaintiff from taking out execution at any time before the same shall be stayed or an appeal granted.

Of executions.

2. *And be it further enacted*, That if an execution shall issue upon any judgment where the defendant prayed an appeal or stay of execution before the ten days be expired, that upon security being given as by this act directed, such execution shall be returned to the justice of the peace who issued it and shall not be acted on by any officer, and the officer or other person who has any such execution shall, on due notice given to him in writing from the justice who granted the execution, deliver up the same, or be liable to the action of the party grieved.

Former laws re-
pealed.

3. *And be it further enacted*, That all laws and clauses of laws coming within the meaning and purview of this law, be and the same are hereby repealed and made void.

CHAP. 833.

(b See 1796,
c. 452, 1801,
c. 592.)

An act to extend(b) the right of challenge in certain cases.

Four jurors may
be challenged
in civil or state
cases.

Be it enacted, &c. That in all cases hereafter to be tried in any court of record within this state, in which the state shall be a party, the defendant or defendants shall have the right of challenging peremptorily and without shewing cause, the number of four jurors; and in all civil causes to be tried in any of said courts hereafter, like right of challenge shall be extended to either party thereto: *Provided*, that nothing in this act shall

be considered to extend to or affect capital cases; any law to the contrary notwithstanding.

CHAP. 834.

An act allowing further time for registering grants, proving and registering deeds, mesne conveyances, powers of attorney, bills of sale, and deeds of gift. (a) (a See 1810, c. 803, 1814, c. 875.)

Be it enacted, &c. That all grants for lands in this state; all deeds of mesne conveyance; powers of attorney under which any lands, tenements or hereditaments have been or may be conveyed; bills of sale, deeds of gift, already proved as deeds of conveyance are required to be proven, or which may hereafter be proved, shall and may within two years after the passing of this act be admitted to registration under the same rules and restrictions as heretofore appointed by law; and said grants, deeds, mesne conveyances, powers of attorney, bills of sale and deeds of gift shall be as good and valid as if they had been proved and registered within the time heretofore allowed; any law to the contrary notwithstanding. Two years allowed.

CHAP. 835.

An act for the distribution and preservation of arms received by this state, under the act of congress for arming the militia of the United States. (See 1819, c. 1027.)

1. *Be it enacted, &c.* That the arms already received under the said law of congress, as the quota of this state, shall be distributed in the following manner, that is to say, To each of the counties of Camden, Pasquotank, Perquimons, Chowan, Gates, Hertford, Bertie, Northampton, Halifax, Martin, Washington, Edgecomb, Pitt, Beaufort, Hyde, Craven, Carteret, Sampson, Cumberland, Brunswick, Columbus, Bladen, Jones, Duplin, Lenoir, Haywood, Buncombe, sixty-four stands of arms; to the county of New-Hanover, one hundred and twenty-eight; to the counties of Onslow and Currituck, ninety-six each; to the county of Wake, eighty-two stands of arms; *Provided always*, that nothing contained in this act shall be construed to extend to the Arms distributed.

arms already distributed to and among the independent and militia companies of the town of Fayetteville.

Executive to
cause the arms
to be delivered.

2. *And be it further enacted*, That the governor of this state, shall forthwith cause the quota of arms by this act assigned for each of the before mentioned counties, to be delivered to the colonel commandant thereof, to be by him placed in the hands of such company of militia of the said county as he may think fit; and the said colonels commandant shall take the necessary measures and give the necessary orders for keeping the said arms safe and in good order; and where there now are, or hereafter may be more than one colonel commandant in any one county, and they cannot agree in which company's hands the said quota of arms shall be placed, they shall apply to their immediate brigadier-general, who shall direct to which company the said arms shall be given.

Distribution of
arms that may
hereafter be re-
ceived.

3. *And be it further enacted*, That when and as often as this state shall receive any other quota of arms, under the said law, or any other law of the United States, the governor of this state for the time being shall cause the same to be divided among the following counties, to wit: Tyrrell, Greene, Nash, Wayne, Johnston, Rutherford, Franklin, Warren, Granville, Robeson, Richmond, Moore, Montgomery, Anson, Mecklenburg, Lincoln, Burke, Ashe, Wilkes, Iredell, Rowan, Cabarrus, Randolph, Chatham, Orange, Person, Caswell, Guilford, Rockingham, Stokes and Surry; to each sixty-four stands of arms; giving priority in the said distributions in the order in which the said counties are herein enumerated, and giving to each county its whole allotment of sixty-four stands of arms at one time; and the said arms shall be disposed of by the commanding officers of the respective counties above enumerated in the manner herein before directed, and under the same responsibility.

Concerning the
same.

4. *And be it further enacted*, When by the distribution aforesaid sixty-four stands of arms shall have been allotted to each county so as completely to equip one company therein, then the governor for the time being shall proceed in like manner, and under the same rules and regulations, to equip another company in each county, giving priority in the said distributions to the different counties in the order in which they are herein enumerated. And shall in like manner, and under the same rules and regulations, proceed in equipping one compa-

by after another in each county until the whole militia of this state are armed : *Provided always*, that when the number of stands of arms delivered to any county shall be equal to the number of the militia therein, the said county shall be entitled to no further distribution of arms.

5. *And be it further enacted*, That every non-commissioned officer and private belonging to any company so equipped, shall keep and preserve his arms and accoutrements in good order, and in a soldierlike manner ; and for every refusal or neglect to do so, shall be fined by the court martial of his company a sum not less than two dollars, nor more than ten dollars ; which fines, and all other fines imposed by the said court martial, shall be laid out and expended under the direction of the captain, in procuring and preserving cartridges, and for other military purposes ; and if any of the companies so equipped shall generally keep their arms in a negligent and unsoldierlike manner, the court martial of the regiment to which any such company belongs, shall and may deprive said company of the public arms and accoutrements, and bestow them on some other company belonging to the said regiment, which last mentioned company shall receive and keep the said public arms and accoutrements on the terms, and under the regulations prescribed by this act.

Penalty for abusing the arms,

6. *And be it further enacted*, That if any person or persons to whom the public arms and accoutrements, or any of them shall be confided, shall sell or in any manner embezzle the same or any part thereof, and be thereof convicted in any court of record, he or they shall forfeit and pay, by sentence of the said court, for the use of the state, a sum not less than twenty dollars, nor more than fifty dollars, for every stand of arms and accoutrements so sold or embezzled ; and shall, moreover, be imprisoned for a period not less than one month, nor more than twelve months : and every person or persons purchasing any of the said public arms and accoutrements, knowing them so to be, shall be prosecuted in the same manner, and shall on conviction be liable to like penalties and imprisonment as the seller or embezzler thereof.

Fine and imprisonment for selling arms,

7. *And be it further enacted*, That when any non-commissioned officer or private, belonging to any of the said companies, shall die, remove from the county, or be ex-

In case of death,

cused from performing military duty, it shall be the duty of the captain of the company to which he belonged, immediately to take the arms and accoutrements of the person so dying, removing or excused, into his possession, and deliver to whoever shall succeed thereto, in the said company ; and the said captain shall keep the said arms and accoutrements safely and in good order while they remain in his possession.

Detachments to
be furnished.

8. *And be it further enacted*, That the governor shall have power to order the colonel commandants of those counties, where any of the arms may be distributed, to place the same in the hands of any detachment or detachments of militia of this state ordered into the service of the United States during the present war with Great-Britain, if the same shall be deemed by him necessary.

CHAP. 836.

An act to prevent unnecessary costs and expenses hereafter in the mode of suing for and recovering forfeited recognizances, in the several courts of this state.

Preamble.

Whereas the present mode of suing for and recovering forfeited recognizances, as heretofore practised in the several courts in this state, are grievously oppressive : for remedy whereof,

Clerks restricted
from issuing
separate sci. fa's
against bail, &c.

1. *Be it enacted, &c.* That in future when any clerk of the superior courts of law or pleas and quarter sessions in this state, shall have occasion, or be required to issue scire facias, or other process, against any person or persons, who shall in future have forfeited any recognizance or recognizances entered into as principal in any one case, and who shall have given one or more persons as bail or security in such recognizance or recognizances, or otherwise caused such bail or sureties to become bound or recognized for and in behalf of such principal as aforesaid, in any one case as aforesaid, and such sureties shall also have forfeited such recognizance or recognizances so entered into as aforesaid, it shall be the duty of such clerk to issue a joint scire facias, or such other joint process as may be deemed legal and necessary against such principal, including such surety or sureties, therein designating who are principals, from those who are sureties ; also specifying therein the respective sums or penalties which each shall have for-

ted, and for which they are required to answer by virtue of said process.

2. *And be it further enacted*, That the sheriff or other officer who may be authorised and required to serve or execute such scire facias, or process, shall do so by serving a copy of such process on each of the defendants, or by leaving a copy at the place of residence of such delinquent or delinquents, or in such other manner as heretofore required by law.

Sheriff to serve each defendant with a copy.

3. *And be it further enacted*, That when the clerk or clerks aforesaid shall enter said suit, on the record or records of their respective courts, to which such process or suit shall be returnable, he shall consolidate and enter the same so as to make but one suit, and on which it shall be lawful to recover or otherwise receive but one set of costs, such as was heretofore recoverable on a single suit of the description aforesaid; the sheriff's fees for service of process excepted; and should any of the clerks, or other persons aforesaid, be guilty of charging in their bill of cost, or otherwise exacting any higher or greater costs than by law shall be due on one single suit as aforesaid, shall be liable to amercement of fifty pounds, to be recovered and paid to the use of the person or persons injured: *Provided*, That nothing herein contained shall be construed so as to prevent any defendant in such suits from severing and pleading separately; in which case it shall be at the discretion of the court to award separate costs.

Clerk and all others except sheriff to receive but one set of costs.

Exceptions when the parties sever and plead separately.

4. *And be it further enacted*, That this act shall be in force from and after the ratification thereof.

CHAP. 837.

An act further regulating the fees of officers.

Whereas a want of uniformity is alleged to exist in estimating the legal fees of officers in consequence of dollars being rated in some counties at eight, and in others at ten shillings: for remedy thereof, Preamble.

Be it enacted, &c. That in the payment of fees to officers of whatever nature or kind, dollars, and the parts of dollars, shall always be valued at the rate of ten shillings for the dollar: and that any officer receiving dollars or parts of dollars at a less rate shall be liable to all the penalties of extortion.

Dollars to be rated at ten shillings.

CHAP. 838.

An act directing the duties of the secretary of state in certain cases, and more effectually to provide for the safe-keeping of the public records, books and documents.

Certain papers, books, & documents to be collected & bound up, &c.

Report to be made to the next Assembly.

Treaties to be transcribed in well bound books.

1. *Be it enacted, &c.* That it shall be the duty of the secretary of state to collect all the books and documents received, and intended for the use of the legislature from the executives and legislatures of the several states, and the acts and journals of congress, together with the public documents received from the executive and the congress of the United States ; also all the treaties entered into on the part of this state ; the laws, acts and journals of the General Assembly, and all other books and documents, received and intended for the use of the legislature ; all which books and journals, laws and documents, not already well bound and lettered, shall be neatly bound, lettered and numbered, under the direction of the secretary of state, who shall place the same in his office in a book-case, to be procured by the said secretary for this purpose : and the secretary shall make a catalogue of all the books, documents, laws, acts and journals, hereby directed to be by him collected and preserved, and report the same to the next General Assembly, and the said books and documents, shall be kept for the use of the members of the General Assembly, heads of departments and judges of the supreme courts only ; and shall be lent and returned under such rules and regulations as the secretary shall from time to time establish.

2. *Be it further enacted,* That it shall be the duty of the secretary of state, to transcribe into a well bound book all the treaties entered into on the part of this state, and preserve the same as a record thereof : and for this service as well as other services imposed upon the secretary of state by this act, he shall receive a compensation to be estimated by the governor, treasurer and comptroller, and to be paid by the treasurer upon their certificate ; and the expenses of the book-case directed by this act to be procured, shall be stated at large by the secretary and upon its being filed with the treasurer, shall be by him discharged.

3. *Be it further enacted,* That in all cases not already provided for by law, the secretary of state shall receive the same fees for copies of records from his office, that

are allowed by law to the registers of the several counties in this state.

CHAP. 839.

An act to repeal so much of the fourth section of an act, passed in the year 1783, entitled "an act for facilitating the navigation and regulating the pilotage of the several ports of this state," as permits negro slaves to act as pilots, and for other purposes.(a)

(a See 1783, c. 194, s. 4.)

1. *Be it enacted, &c.* That so much of the fourth section of an act passed in the year 1783, entitled "an act for facilitating the navigation, and regulating the pilotage of the several ports of this state," as provides that negroes, after performing certain requisites therein mentioned, shall be entitled to a certificate to act as pilots, be, and the same is hereby repealed and made void.

Negroes not permitted to act as pilots.

2. *And be it further enacted,* That from and after the passing of this act, if any slave or slaves shall, with the knowledge or consent of his or their owner, and not accompanied by a pilot, go off to any ship or vessel for the purpose of bringing such ship or vessel over any bar or inlet of this state, or shall pilot any such ship or vessel out and over any bar or inlet, the owner of such slave or slaves shall forfeit the value of such slave or slaves, to be recovered in any court having cognizance thereof, one half to the person suing for the same, the other half to the use of the county wherein the owner resides.

Penalty.

CHAP. 840.

An act for the better regulating apprentices.(b)

(b See 1762, c. 69, s. 19, 20. 1796, c. 468.)

Whereas mechanics in the state frequently take apprentices who are very young and for several years of their apprenticeship are rather a burthen than otherwise to their masters, and it frequently happens that such apprentices when they might be expected to be useful to their masters, absent themselves from their service whereby many suitable persons are discouraged from taking apprentices, and the laws in being are not sufficient to prevent these inconveniences; for remedy whereof,

Preamble

Apprentice subjected to damages for running away.

Be it enacted, &c. That from and after the first day of January next, if any apprentice who shall be well used by his master, and who shall have received from his said master not less than six months schooling, shall absent himself after arriving to the age of eighteen years from his master's service, before the term of his apprenticeship shall be expired, every such apprentice shall at any time or times thereafter, whenever he shall be found, be compelled to make satisfaction to the master for the loss he shall have sustained by his absence from his service before the time of his contract shall be fulfilled, and in case any apprentice shall refuse to make such satisfaction to his master, such master may recover by warrant, issued and returnable before any justice of the peace, such satisfaction, not exceeding thirty pounds, as such justice may determine shall be made to such master by such apprentice, or such master may maintain his action on the case against such apprentice and recover his damages as a jury may award in any court having cognizance thereof: *Provided*, That the judgments of any justice upon a trial under this act shall be subject to the same right of appeal or stay of execution as in other cases of judgments by justices of the peace: *Provided also*, That no apprentice shall be compelled to make any satisfaction to any master after the expiration of seven years, next after the end of the term for which such apprentice shall have contracted or shall have been bound to serve; any thing herein contained to the contrary notwithstanding.

Exception.

CHAP. 841.

An act to authorise Mrs. Ann White, widow and executrix of the last will and testament of William White, late secretary of state of this state, to cause to be recorded certain grants.

1. *Be it enacted, &c.* That Ann White, widow and executrix of the last will and testament of William White, late secretary of state, be and she is hereby authorised to cause to be recorded in the office of secretary of state all such grants as were issued and the fees received upon them by her said husband, which remain to be recorded: and that she be permitted to contract with and employ for the purpose abovesaid some suitable per-

Grants to be recorded by the 1st June.

on to be approved of by the present secretary of state, and who shall make such entries of record under the direction of the said present secretary of state, without any charge therefor to the state: *Provided*, such entries be made before the first day of June next; and if the said grants shall not be entered of record in the manner and by the time above prescribed, the secretary of state for the time being is hereby authorised and required to cause said grants to be recorded, and to charge the expense incurred therefor to the estate of the said William White.

2. *And be it further enacted*, That the grants to be recorded under the provisions of this act shall be on the same footing in all respects as evidence and as furnishing originals from which to obtain evidence as other records in the office of the secretary of state. Evidence.

3. *And be it further enacted*, That this act shall be in force from and after the ratification thereof.

CHAP. 842.

An act to amend an act entitled "an act directing the method of electing members of the General Assembly," and for other purposes. (a) (a See 1777, c. 116, s. 3.)

1. *Be it enacted, &c.* That all inspectors hereafter to be appointed for the purpose of superintending any election for members of the General Assembly, shall, before they enter upon the duties of said appointment, take an oath or affirmation, to be administered by the sheriff, or in case of his absence, by some justice of the peace, to conduct the election which they are appointed to superintend fairly and impartially, according to the constitution and laws of the state. Inspectors of elections must be sworn.

2. *And be it further enacted*, That the deputy sheriffs holding any election as aforesaid, shall take the oaths or affirmations prescribed in the foregoing section, to be administered to the inspectors of elections. Also deputy sheriffs.

CHAP. 843.

An act to revive and continue in force an act passed in the year eighteen hundred and ten, directing the manner and time in which surveys of land were to be made and returned into the secretary's office.(a)

(a See 1810, c. 804.)

Allowed till 1815 to make surveys, &c.

1. *Be it enacted, &c.* That all *bona fide* entries of land in the state, which have been paid for as by law directed, shall have until the first day of January, in the year one thousand eight hundred and fifteen, for surveys to be made and returned into the secretary's office; any law to the contrary notwithstanding.

2. *And be it further enacted,* That this act shall be in force from the ratification thereof.

CHAP. 844.

(b See 1796, c. 464.)

An act making the protest of a notary public evidence in certain cases.(b)

Protests of a notary or justice of the peace evidence.

(Amended by act of 1819, c. 1003.)

Be it enacted, &c. That in all actions at law, wherein it may be necessary to prove a demand upon the drawer of a bill of exchange or the maker of a promissory note or other negotiable security, the protest of a notary public, or for want of a notary public, of a justice of the peace, shall be evidence of the demand as in cases of foreign bills of exchange.

CHAP. 845.

(c See 1784, c. 227, s. 8, 1813, c. 859.)

An act requiring notice of their appointment to be given to overseers(c) of roads, rivers and creeks.

Clerks to furnish sheriffs with two orders.

1. *Be it enacted, &c.* That from and after the passage of this act, it shall be the duty of the clerks of each and every county court of pleas and quarter sessions of this state, within ten days after the rise of each court, to furnish their respective sheriffs, with two copies of each order, appointing overseers of the roads or rivers or creeks, that may have been made during the sitting of the said court.

2. *And be it further enacted,* That it shall be the duty of the sheriffs receiving the same within twenty days after receiving the same to serve each person so appointed

as overseer of a road, river, or creek, with one copy of said orders, or leave the same at his usual habitation, and the other copy it shall be his duty to return to the next county court happening thereafter, endorsed on the back with the date of the service, or the date when left at the residence of said overseer.

3. *And be it further enacted*, That no overseer shall be responsible for the insufficiency of the road, river or creek, of which he is appointed overseer, until ten days after he shall be served with the notice of his appointment.

Sheriff to serve
the notice with-
in 20 days.

CHAP. 846.

An act to amend the 11th section of an act passed in the year seventeen hundred and eighty-four, entitled "An act to empower the county courts of pleas and quarter sessions of the several counties of this state, to order the laying out public roads, and to establish and settle ferries, and to appoint where bridges shall be built, and to clear inland creeks and rivers."(a)

(a See 1784, c.
227, s. 11.)

Be it enacted, &c. That no overseer of any public road, shall be subject to any indictment for neglecting to set up sign posts at the forks of roads in the manner directed by the eleventh section of an act passed in the year seventeen hundred and eighty-four, unless he shall fail to set up the same for the space of fifteen days.

Allowed 15 days
to set up sign
posts.

CHAP. 847.

An act relative to the power of courts of equity(b) in cases of partition.

(b See 1782, c.
177, s. 2. 1818,
c. 982, and 1819,
c. 1022.)

Whereas doubts exist as to the power of courts of equity to order a sale of real estate in cases of partition, where an equal and advantageous division cannot be made.

Preamble.

Be it enacted, &c. That it shall and may be lawful for any court of equity in cases of application for a division of real estate, when it shall be suggested and made appear to the satisfaction of the court, that an actual partition cannot be made without injury to some or all of the parties interested, to order a sale of the property upon such terms as such court shall deem just and reasonable: *Provided always*, that whenever any of the parties shall be an infant, a feme covert, non compos,

Court authorised to order sale
of property in
certain cases.

imprisoned or beyond the limits of this state, it shall be the duty of the court to direct the part of the proceeds of the sale to which such person is entitled to be so invested or settled that the same shall be effectually secured unto the person so entitled, or his or her real representatives.

CHAP. 848.

(*a* See 1815, c. 896, 1816, c. 929, 1817, c. 959.)

An act for improving the navigation of Roanoke river, from the town of Halifax to the place where the Virginia line intersects the same. (*a*)

Whereas the navigation of Roanoke river from the said town of Halifax westward, is of important public utility, and many persons are willing to subscribe money to effect the same, and it is just that such subscribers, their heirs and assigns, should receive reasonable toll in satisfaction for the money advanced by them to execute the said work and for the risk they run.

Books to be opened.

1. *Be it enacted, &c.* That it shall and may be lawful to open books of subscription at Edenton, under the direction of Josiah Collins, jun. John Little and Matthias E. Sawyer, or any two of them; at Plymouth, under the direction of William M. Clark, John Armstead and Josiah Flowers, or any two of them; at Windsor, under the direction of David Stone, Joseph H. Bryan and Kenneth Clark, or any two of them; at Halifax, under the direction of Henry L. Irwin, Robert Johnson and William Burt, or any two of them; at Warrenton, under the direction of Peter R. Davis, John Snow, and William Ruffin, or any two of them; at Oxford, under the direction of Thomas B. Littlejohn, William M. Sneed and William Bullock, or any two of them; at Rocksborough, under the direction of Alexander Cunningham, Ira Lee and William Jeffers, or any two of them; at Caswell court-house, under the direction of Solomon Graves, senior, Barzilla Graves, junior, and Griffin Gunn, or any two of them; at Wentworth, in Rockingham county, under the direction of Robert Galloway, James Campbell and Samuel Hill, or any two of them; at Germantown, in Stokes county, under the direction of Jeremiah Gibson, Peter Hairston and Thomas T. Armstrong, or any two of them; and at Raleigh, under the direction of Henry Seawell, William

Boylan and Joseph Gales, or any two of them, for receiving subscriptions to the amount of one hundred thousand dollars for the said undertaking ; which subscription shall be made personally or by power of attorney, and shall be in dollars ; that the said books shall be opened on the first day of February next, and be kept open until the first day of October next inclusive, and on the fourth Monday of the said month of October, there shall be a general meeting of the subscribers at Halifax town aforesaid, and the managers aforesaid, or any three of them, shall give notice of such meeting in one newspaper published in the town of Petersburg, in the state of Virginia, and in one or more newspapers published in the city of Raleigh in this state, one month at least before the day for that purpose appointed, and such meeting shall and may be continued from day to day until the business is finished ; and the acting managers shall then and there lay before said meeting, the books by them kept, containing a state of said subscription ; and if the capital sum aforesaid shall not have been subscribed, then the managers at Halifax aforesaid, during the said meeting, continue to receive subscriptions to make up the said deficiency ; and may thereafter, at such times and places, and on such conditions and terms, as that or any other general meeting of stockholders shall direct, open books for making up any deficiency that may still remain. The president and directors shall immediately after the said first meeting, and afterwards from time to time, as often as owing to new subscriptions the same shall become necessary, make a list of the subscribers, with the sums subscribed by each person, and return the same under their hands or under the hands of any three of them, to the secretary's office of the state of North-Carolina there to be recorded : and if more than one hundred thousand dollars shall be subscribed before the said first general meeting of the subscribers, the same shall be reduced to that sum by the managers or a majority of them, by beginning to strike off a share from the largest subscriptions in the first instance, and continuing to strike off one share from all subscriptions under the largest and above one share, until the same is reduced to the capital aforesaid of one hundred thousand dollars, or until one share is taken from all subscriptions above one share ; and lots shall be drawn between subscriptions of equal sums to deter-

Capital

General meeting of subscribers, &c

Return to be made to secretary's office.

How the excess of subscription to be stricken off, &c.

mine the numbers, in which such subscribers shall stand on a list to be made for striking off as aforesaid, and if the sum subscribed still exceeds the capital aforesaid, then they shall strike off by the same rule, until the sum subscribed is reduced to the capital aforesaid, or until all the subscribers shall be reduced to one share, and if there still be an excess, then lots shall be drawn to determine the subscribers who are to be excluded to reduce the subscription to the capital aforesaid; and the said capital sum shall be divided into one thousand shares of one hundred dollars each; and any person may subscribe for one or more whole shares but not for part of a share, and this state shall, until the fourth Monday in April in the year one thousand eight hundred and fourteen, have the right in preference of all others of subscribing for two hundred shares; and if at the time when such subscription on behalf of this state shall be made, more than eight hundred shares shall have been subscribed for by individuals, then the said subscriptions by individuals shall be reduced to eight hundred shares, by striking off in the manner herein before directed; and the money paid on the shares struck off, (if any) shall be returned to the owners of such shares: *Provided*, that unless four hundred shares shall be subscribed before, or at the meeting of the subscribers at Halifax in Halifax town, on the fourth Monday in October next, all subscriptions made in consequence of this act, shall be void.

Incorporation.

2. *And be it further enacted*, That in case four hundred shares or more of said capital, shall be subscribed as aforesaid, the subscribers, their heirs and assigns from the time of the said first meeting, shall be, and they are hereby declared to be incorporated into a company by and under the name of "The Roanoke Navigation Company," and may sue and be sued, as such: and such of the said subscribers as shall be present at the said meeting or a majority of them, are hereby empowered and required to elect a president and four directors for conducting the said undertaking, and managing all the said company's business and concerns for and during such time, not exceeding one year, as the said subscribers or a majority of them shall think fit; and in counting the votes of all general meetings of the said company, each member shall be allowed one vote for every share as far as ten shares, and one vote for every

five shares above ten by him or her held at the time in the said company ; and any proprietor by writing under his or her hand, executed before two subscribing witnesses and acknowledged or proved before a justice of the peace, may depute any member to act as proxy for him or her at any general meeting or meetings, and the presence and acts of such proxy shall be as effectual, to all intents and purposes as the presence or acts of his or her principal could or might be.

3. *And be it further enacted*, That the president and directors, and their successors or a majority of them assembled, shall have power and authority to agree with any person or persons on behalf of the company to open and improve the navigation of Roanoke River from the town of Halifax, westward to where the Virginia line intersects the same, by canals, locks or sluices from place to place, and from time to time, upon such terms as they shall think fit, and out of the said capital and money arising from tolls, pay for making and repairing all works necessary for the said navigation, and also to appoint a treasurer, not one of their own body but yet a proprietor, clerk, toll-gatherers, and such officers, managers and servants as they shall think requisite, and also to agree for their wages, settle and pass their accounts, and at their pleasure to remove all or any of them, and appoint others in their place, and also to establish rules of proceeding; and generally to transact all the business of the company in the intervals between the general meetings of the same; and any general meeting of the proprietors may allow the said president and directors such sum of money as the said general meeting may judge a reasonable compensation for their trouble; *Provided always*, that the treasurer shall give bond and security as the president and directors, or a majority of them shall direct, for the true and faithful discharge of the trust reposed in him, and that the allowance to be made to him, shall not exceed three dollars in the hundred, for the disbursements by him made, and that no officer of the said company shall have a vote in the settlement or passing of his own accounts.

President and directors, their power and duties.

4. *And be it further enacted*, That each subscriber shall pay for every share by him or her subscribed at the first general meeting, to be held as aforesaid, the sum of ten dollars to the treasurer of the company; and the names of those who fail to pay then and there, may

First payment per share.

Appropriation
of monies.

What may be
demanded in
one year and
how payment
enforced.

be struck off the books, and others complying with this regulation may take such shares; and the president and directors, and their successors or a majority of them shall have power from time to time, as money may be wanting, to make and sign orders for that purpose, and direct at what times and in what proportions the subscribers shall pay the sums by them subscribed, which orders shall be advertised at least one month in some one newspaper published in the town of Petersburg in Virginia, and in one or more newspapers published in the city of Raleigh in North-Carolina; *Provided always*, that the president and directors shall not demand from the subscribers more than thirty-three dollars and one third per share in one year, and if any of the subscribers, their heirs or assigns, shall fail to pay their proportions required within one month after the same is so advertised, the president and directors or a majority of them, may sell at auction and convey to the purchasers, the shares of the subscribers so failing, giving at least one month's notice of the sale in the newspapers aforesaid, and all such sales shall be in the town of Halifax aforesaid, and after retaining the sum due, together with the interest thereon and charges of sale, out of the money produced thereby, they shall refund and pay the surplus, if any, to the former owners; and if such sale shall not produce the full sum ordered and directed to be advanced as aforesaid, with interest and incidental charges, the said president and directors, or a majority of them may, in the name of the company, sue for and recover the balance by motion in any court of competent jurisdiction, on ten days previous notice; and the said purchaser or purchasers shall be subject to the same rules and regulations, and entitled to the same profits and privileges as if the sale or conveyance had been made by the original proprietor.

President and
directors when
chosen, &c.

5. *And be it further enacted*, That from time to time, on the expiration of the term for which the said president and directors may be appointed, the proprietors at their next general meeting, shall either continue the said president and directors, or any of them, or choose others in their stead, and in case of the death, removal, resignation or incapacity of the president or any of the directors, the remaining members of that body, may appoint a successor until the next general meeting; and the proprietors, at their next general meeting shall fill

up such vacancy, and may at any general meeting, remove the president or any of the directors and appoint others in their stead for and during the term for which such person or persons were at first to have acted.

6. *And be it further enacted*, That every president and director, before he acts as such, shall take an oath To take an oath. or affirmation for the due execution of his office.

7. *And be it further enacted*, That the presence of proprietors owning a majority of shares, shall be necessary to constitute a general meeting, and that from A majority of shares constitute a general meeting.
and after the first general meeting of the subscribers, the general meeting shall be held on the fourth Monday in April annually, at the town of Halifax aforesaid; but if a sufficient number shall not attend on that day, the proprietors who do attend, may adjourn such meeting from day to day until the business of the company is finished; to which meeting the president and directors shall make report, and render distinct and just accounts of all their proceedings, and on finding them Board of directors to report, &c.
fairly and justly stated, the proprietors then present or a majority of them, shall give a certificate, a duplicate of which shall be entered on the said company's books; and at such yearly general meeting, after leaving in the hands of the treasurer, such sum as the proprietors then present, or a majority of them shall judge necessary for repairs and contingent charges, an equal dividend of all the nett profits arising from the tolls hereby granted, shall be ordered and made to the proprietors of the said company in proportion to their several shares; and on any emergency in the interval between the said yearly meetings, the president or a majority of the directors, may appoint a general meeting of the proprietors of the company at the town of Halifax aforesaid, giving at least one month's previous notice in the manner heretofore directed, which meeting may be adjourned and continued as aforesaid.

8. *And be it further enacted*, That for and in consideration of the expenses the said proprietors will be at, not only in cutting canals, erecting locks, and performing other works necessary for this navigation, but in maintaining and keeping the same in repair; the said canals, locks, and every work and thing appertaining to the said navigation, with all the profits arising from the same, or any part thereof, shall be and they are hereby vested in the said proprietors, their heirs and as- The public works vested in the proprietors.

Tolls.

signs forever, as tenants in common in proportion to their respective shares; and the same shall be exempt from the payment of any tax, imposition or assessment whatsoever; and it shall and may be lawful for the said president and directors respectively, and at all times hereafter, to demand and receive at some convenient place or places, at or near the Falls of Roanoke, for all commodities transported through any canal, lock, or sluice, made by the said company, tolls according to the following table and rates, to wit: For every pipe or hogshead of wine, containing more than sixty-five gallons, seventy-five cents; every hogshead of rum or other spirits, sixty-five cents; every cask between sixty-five gallons and thirty-five gallons, half of a pipe or hogshead; barrels, one fourth part of a pipe or hogshead, and smaller casks or kegs in proportion, according to the quantity of their contents of wine or spirits; for casks of linseed oil, the same as spirits; every hogshead of tobacco, fifty cents; every bushel of wheat, peas, beans or flax seed, three cents; every bushel of Indian corn or other grain, or salt, two cents; every barrel of pork, fish or beef, twenty-five cents; every barrel of flour, fifteen cents; every ton of hemp, flax or pot-ash, one hundred and fifty cents; every ton of manufactured iron, one hundred and twenty-five cents; every ton of pig-iron or castings, fifty-two cents; every ton of copper, lead or other ore than iron ore, one hundred and twenty-five cents; every ton of stone or iron ore, twenty-five cents; every hundred bushels of lime, fifty cents; every hundred weight of cotton in seed, ten cents; every hundred weight of clean cotton, forty cents; every chaldron of coals, twenty-five cents; every hundred pipe staves, eight cents; every hundred hogshead staves, or pipe or hogshead heading, five cents; every hundred barrel staves or barrel heading, four cents; every hundred hogshead hoops, four cents; every hundred barrel hoops, two cents; every hundred cubic feet of plank or scantling, twenty-five cents; every hundred cubic feet of other timber, twenty cents; every gross hundred weight of all other commodities or packages, eight cents; all other produce, goods, wares or merchandise, one fourth of one per cent; every boat or vessel which has not commodities aboard to yield so much, one hundred and fifty cents; *Provided*, that an empty boat or vessel returning, whose load has already

paid at the respective places, the sums fixed at each, shall repass toll-free; *Provided always*, that the said tolls shall be abated in cases where only a partial navigation shall be effected, in proportion to the length or distance through which any person or persons may pass; and that such partial charges of toll shall be regulated by the president and directors of the company in such manner as they may think proper; and if any person or persons shall refuse to pay the tolls at the time of offering to pass the places appointed for their collection and previous to passing the same, the collectors respectively may lawfully refuse passage to the person or persons so refusing; and if any vessel shall pass without paying the toll, then the said collectors respectively, may lawfully seize such boat or vessel and sell the same at auction for ready money, after advertising the sale at least ten days; the money arising from which sale, so far as is necessary shall be applied towards paying the said tolls, and all expenses of seizure and sale, and the balance if any, shall be paid to the owner; and the person having the direction of such vessel shall be liable for such tolls if the same are not paid by the sale aforesaid.

9. *And be it further enacted*, That as soon as the said company shall have so far completed their works, as that they are ready for the transportation of produce, they shall advertise the same in three of the public newspapers of this state, and in one newspaper published in the town of Petersburg, in the state of Virginia; and this legislature may, at the expiration of twenty-five years thereafter, and at the expiration of every twenty-five years thereafter, alter the rates of toll hereby established: *Provided*, that this legislature shall not at any time reduce the rates of tollage so as to reduce the profits arising therefrom, below fifteen per cent. upon the capital stock.

When works ready for transportation, company to advertise.

10. *And be it further enacted*, That the president and directors of the said company shall, every twenty-fifth year, after their works are completed, and ready for the transportation of produce, make return to this General Assembly of the amount of toll received by them for the preceding twenty-five years; which return shall be sworn to before some one of the judges of the superior courts of law of this state, or in open court in some one of the courts of pleas and quarter sessions of this state.

Returns to be made to General Assembly.

The navigation
to be a public
highway.

11. *And be it further enacted*, That the navigation and works of the said company, done in pursuance of this act, when completed, shall be forever thereafter considered as public highways, free for the transportation of all goods, wares, commodities or produce whatsoever, on payment of the tolls imposed by this act; and no other toll or tax whatever for the use of the water of the said navigation and works thereon erected, shall at any time hereafter be imposed without the consent of this legislature.

To purchase or
condemn land,
&c.

12. And whereas it may be necessary to complete the navigation aforesaid, that certain portions of land or rocks, or fish stands in the river, should be condemned for the purpose: *Be it further enacted*, That it shall be lawful for the president and directors, or a majority of them, to agree with the owners of any lands, rocks, sluices, or fish stands, through which the said navigation is intended to pass, for the purchase thereof; and in case of disagreement, or if the owner shall be feme covert, under age, non compos or out of the state, on application to any two justices of the county in which such lands, rocks, sluices or fish stands lie, the said justices shall issue their warrant to the sheriff of the said county, to summon a jury of eighteen freeholders, not related to the parties, and disinterested, to meet on the land to be valued at a day to be expressed in the said warrant, not less than ten, nor more than twenty days thereafter; and the sheriff, on the receipt of the said warrant, shall summon the said jury, and when met, shall administer an oath or affirmation to each of them, provided twelve or more appear, to wit: That he will impartially value the thing in question, and consider all damages the owner thereof may sustain, in consequence of being divested of his property therein; and that he will not in his valuation, spare any person through favour, nor injure any one through malice or hatred, and the inquisition so taken shall be signed by the sheriff and twelve or more jurors, and returned to the clerk of the county to be recorded; and in all such cases, the jury is directed to describe the thing valued, and their valuation shall be conclusive; and the president and directors shall pay the same to the owners of the thing valued, or his legal representatives, and if neither can be found in the state, or if found, should refuse to receive the money, then to the clerk of the court of pleas

and quarter sessions for the county, and on payment thereof, the said company shall be seised in fee of the thing valued, whether it be land, rocks, sluices or fish-stands, in the same manner as if conveyed to them by the owners, by legal conveyance, *Provided*, That such condemnation shall not interfere with dwelling-houses.

13. *And be it further enacted*, That the president and directors or a majority of them, may agree with the proprietor or proprietors for any quantity of land not exceeding four acres at or near each place intended for collecting the tolls aforesaid, for the purpose of erecting necessary buildings, and in case of disagreement or any of the disabilities aforesaid, or the proprietor or proprietors being out of the state, the same proceeding may be had, and the same consequences shall follow as are enacted in the preceding clause.

Toll-houses.

14. *And be it further enacted*, That it shall and may be lawful for every proprietor to transfer his or her share or shares by deed executed before two witnesses, and registered after proof of the execution in the company's books and not otherwise, except by devise: which devise shall also be exhibited to the president and directors, and registered, before the devise shall be entitled to draw any part of the profits from the said tolls: *Provided*, That no transfer shall be made, except for one or more whole share or shares, and not for part of such shares, and that no share or shares shall at any time be sold, conveyed, transferred or held in trust for the use and benefit, or in the name of another, whereby the said president and directors, or proprietors, members of the said company or any of them, shall or may be challenged or made to answer any such trust, but that every such person appearing as aforesaid to be a proprietor shall, as to the others of the said company, be to every intent taken absolutely as such; but between any trustee and the person for whose benefit such trust shall be created, the common remedy may be pursued.

Transfer of shares.

15. *And be it further enacted*, That if the said capital shall prove insufficient it shall and may be lawful for the said company from time to time to increase their capital by the addition of so many whole shares as shall be judged necessary by the proprietors, members of said company or a majority of them who shall be present at any general meeting, and on such terms as the said general meeting shall think fit; and the said president

Capital may be increased.

and directors or a majority of them, are hereby empowered and required, after giving one month's notice in one newspaper published in Petersburg aforesaid, and in one or more newspapers published at Raleigh aforesaid, to open books at the before mentioned places, for receiving and entering such additional subscriptions, in which the proprietors for the time being are hereby declared to have the preference of all others, for the first thirty days after the books shall be opened as aforesaid, of taking and subscribing for so many whole shares as any of them shall choose; and the president and directors are hereby required to observe in all other respects, the same rules therein as are by this act prescribed for receiving and adjusting the first subscriptions, and in like manner to return under the hands of any three or more of them, an exact list of such additional subscribers, with the sums by them respectively subscribed, into the secretary's office of the state of North-Carolina, to be there recorded; and all proprietors of such additional shares shall, and are hereby declared to be from thence forward, incorporated into the said company.

When to complete the navigation.

16. *And be it further enacted,* That if the said company shall not complete the navigation so as to admit the safe passage of boats through the same within ten years after the conclusion of the present war, all preference in favor of the said company in said navigation shall be forfeited: *Provided,* That if the said company shall, at the expiration of the said ten years, have completed two thirds of the said navigation, they shall have a further time of three years for completing the same.

Any defendant may give this act in evidence under general issue.

17. *And be it further enacted,* That the said company and their successors, shall have the power of purchasing and holding, and selling real and personal estate; and if any person or persons shall be sued for any thing done in pursuance of this act, he or they may plead the general issue and give this act and the special matter in evidence, and on a verdict against the plaintiff or plaintiffs, or nonsuit, or discontinuance, recover costs of suit.

No restrictions, &c. to be imposed on the company.

18. *And be it further enacted,* That the General Assembly of North-Carolina shall not impose any restriction, duty or impost on commodities, manufactures, produce or merchandise transported by the said navigation, and that no distinction be made between the people of North-Carolina and the people of Virginia; *Pro-*

vided, that this General Assembly may make such regulations, respecting the inspection of produce brought down the said River Roanoke and intended for exportation, as they shall think proper, making no distinction between the people of North-Carolina and the people of Virginia. *And provided always*, that nothing in this act contained shall be construed to exempt from taxation, any lands or other property of the said company other than that immediately used for the navigation by this act contemplated to be effected.

19. *And be it further enacted*, That all laws and parts of laws that come within the purview and meaning of this act are hereby declared void and of no effect, and that no part of this act shall be so construed as to interfere with the stipulations and provisions of an act passed at Raleigh in the year one thousand eight hundred and eleven, entitled "An act to incorporate a company for the purpose of cutting a navigable canal from Roanoke River and from the waters of Chowan River in this state, to some of the waters of James River in the state of Virginia, or to the Dismal Swamp Canal." Repealing clause, &c.

CHAP. 849.

An act for opening and improving the navigation of Neuse River.

1. *Be it enacted, &c.* That for the purpose of opening and extending the navigation of the river Neuse it shall and may be lawful to open books of subscription at Raleigh under the direction of Joseph Gales, Calvin Jones and Henry Seawell, or any two of them; at Newbern under the direction of John Stanly, William Shepherd and William Hollester, or any two of them; for receiving subscriptions to the amount of fifty thousand dollars for the said undertaking; the subscriptions shall be made personally or by power of attorney, and shall be in dollars. The said books shall be opened on the first day of April next, and be kept open till the fifteenth day of July next, and on the said fifteenth day of July there shall be a general meeting of the subscribers at the city of Raleigh; and the managers aforesaid or any two of them shall give notice of the said meeting in one or more of the newspapers published in Raleigh, one month at least before the day for that purpose appoint- Books to be opened for capital of \$50,000.

ed; the meeting shall and may be continued from day to day until the business is finished; the acting managers shall then and there lay before the said meeting the books by them kept, containing a statement of the subscriptions made; if the capital sum aforesaid shall not have been subscribed, the managers shall at Raleigh, during the said meeting, continue to receive subscriptions to make up said deficiency; and the proprietors may thereafter at such times and places and on such terms and conditions as any general meeting of the stockholders shall direct, cause to be opened books of subscription for making up any deficiency that may still remain.

List of subscribers to be returned to secretary's office.

How subscriptions reduced, &c.

2. *Be it further enacted*, That the president and directors, shall immediately after the said first general meeting and afterwards from time to time as often as new subscriptions shall render the same necessary, cause a list of the subscribers with the sums subscribed by each to be made, and to return the same under their hands or under the hands of three of them to the office of the secretary of state, there to be recorded. If more than the sum of fifty thousand dollars shall be subscribed before the said first general meeting of subscribers, the same shall be reduced to that sum by the managers or a majority of them, by striking off from the largest subscriptions, a share or shares until the whole sum shall be reduced to the said sum of fifty thousand dollars: the said capital sum shall be divided into five hundred shares of one hundred dollars each, and any person or persons may subscribe for one or more whole shares, but not for a part of a share. The state shall, until the first day of January in the year one thousand eight hundred and fourteen, have the right in preference of all others, of subscribing for one hundred shares of the said stock. If one hundred shares shall not be subscribed in the said stock before, or on the said first day of January in the year one thousand eight hundred and fourteen, all subscriptions made under this act shall be void.

Subscribers incorporated.

3. *And be it further enacted*, That if one hundred shares or more, of the said capital stock shall be subscribed before or on the said first day of January in the year one thousand eight hundred and fourteen, the subscribers, their heirs and assigns from the time of their subscription, shall be, and they are hereby declared to

be incorporated into a company by the name of the Nouse River Navigation Company, and by the said name may sue and be sued, have a common seal alterable at pleasure, and be invested with all the rights and powers properly and legally belonging to a body corporate; and in case one hundred shares shall be subscribed in the said capital stock, before or during the meeting of proprietors directed to be held in July next, such of the subscribers as shall be present at the said meeting, are hereby empowered and required to choose a president and three directors for conducting the said undertaking, and managing all the business and concerns of the said company, for such term not exceeding one year, as the said subscribers shall think fit. If one hundred shares shall not have been subscribed to the capital stock of the said company before the end of the general meeting directed to be held in July next, the proprietors are further authorised to choose a president and three directors at any time thereafter at a general meeting to be held on or before the first day of January in the year one thousand eight hundred and fourteen, after one hundred shares shall have been subscribed. In counting the votes at all general meetings of the said company, each member shall be allowed one vote for each and every share held by him or her in the stock of the said company; any proprietor by writing under his or her hand, executed before two subscribing witnesses and acknowledged or proved before a justice of the peace, may depute a member to act as proxy for him or her; and the acts of such proxy shall be as effectual as the acts of his or her principal would be.

President and
directors
chosen.

How to vote at
general meet-
ings.

4. *And be it further enacted*, That the said president and directors, or a majority of them, shall have power in behalf of the said company to contract for the opening and improving, or otherwise cause to be opened and improved the navigation of Nouse River, from the present head of boat navigation therein, below Lockhart's Falls, westward to Crabtree Falls, including both places, by canals, locks or sluices, from place to place, and from time to time as they shall think fit: and out of the said capital and money arising from tolls, to pay for making and repairing all works necessary for the said navigation, as well as all other expenses incident to the said undertaking, and also to appoint and employ, removable at their pleasure, all such officers, clerks and

Power and du-
ties of president
and directors,
&c.

servants, as in their judgment shall be necessary for carrying on the affairs of the said company; to establish the salaries and conditions upon which their officers shall be employed; to make bye-laws, and establish rules of proceeding not inconsistent with the laws and constitution of the state; and generally to transact all the business of the company in the intervals between the general meetings of the same. Any general meeting of the proprietors may allow the president and directors such sum of money as the said general meeting shall judge to be a reasonable compensation for their trouble.

What paid on
subscription,
&c.

(a See 1816, c.
914, and ante
848, s. 4.)

Instalments
how collected,
&c.

5. *And be it further enacted*, That each proprietor shall pay for every share by him or her held at the first general meeting at which a president and directors shall be appointed as aforesaid, the sum of five(a) dollars. The names of those who fail to pay then and there, may be struck off the books, and others complying with this regulation may take their shares. The president and directors or a majority of them shall have power to direct at what times and in what proportion the subscribers shall pay the sums by them respectively subscribed, and the orders for this purpose shall be advertised at least one month in some one of the papers published at Raleigh; but the said president and directors shall not demand more than twenty-five dollars on a share in one year. If any of the subscribers or proprietors, their heirs or assigns, shall fail to pay the advances required within one month after the time assigned for the payment thereof by the president and directors as aforesaid, the said president and directors, or a majority of them, are hereby authorised to sell at auction and convey to the purchasers the share or shares of the subscribers or proprietors so failing, giving at least one month's notice of the sale in some newspaper published at Raleigh as aforesaid, and after retaining the sum due with interest thereon and charges of sale out of the money produced thereby, they shall refund the surplus, if any, to the former owners. If such sale shall not produce the full sum directed to be advanced as aforesaid with interest and incidental charges, the said president and directors, or a majority of them, may in the name of the company, sue for and recover the balance in any court of competent jurisdiction.

6. *And be it further enacted,* That from time to time, on the expiration of the term for which the said president and directors may be appointed, the proprietors at their next general meeting shall either continue the said president and directors, or any of them, or choose others in their stead; and in case of the death, removal, resignation or incapacity of the president or any of the directors, the remaining members of that body may appoint a successor until the next general meeting; and the proprietors at their next general meeting shall fill up such vacancy, and may at any general meeting, remove the president or any of the directors and appoint others in their stead, for and during the term for which such person or persons were at first to have acted.

Election of president and directors.

7. *And be it further enacted,* That every president and director before he acts as such, shall take an oath or affirmation for the faithful discharge of the duties of his office.

8. *And be it further enacted,* That the presence of proprietors owning a majority of shares shall be necessary to constitute a general meeting; and general meetings after the first, shall be held at such time and place annually as the proprietors in general meeting shall appoint for the purpose; and if a sufficient number shall not attend on the day and at the place appointed, the proprietors who do attend on that day may adjourn such meeting from day to day until the business of the company is finished; to which meeting the president and directors shall make report, and render distinct and just accounts of all their proceedings, and on finding the said accounts fairly and justly stated, the proprietors then present, or a majority of them, shall give a certificate, a duplicate of which shall be entered on the said company's books. And at such yearly general meeting, after leaving in the hands of the treasurer, such sum as the proprietors then present, or a majority of them, shall judge necessary for repairs and contingent charges, an equal dividend of all the nett profits arising from the tolls hereby granted shall be ordered, and made to the proprietors in proportion to their several shares. On any emergency in the intervals between the said yearly meetings, the president and directors, or a majority of them, may appoint a general meeting of the proprietors of the company, giving at least one month's notice as before directed, which meeting may adjourn and continue as aforesaid.

Number of shares to constitute a general meeting, &c.

General meeting appointed by president & directors.

The works vested
in company.

9. *And be it further enacted*, That in consideration of the expenses the said proprietors will be at in cutting canals, erecting locks and performing other works necessary for their navigation, and in maintaining and keeping the same in repair, the said canals, locks and every thing appertaining to the said navigation, with all the profits arising from the same or any part thereof, shall be, and they are hereby vested in the said proprietors, their heirs and assigns forever as tenants in common, in proportion to their respective shares : and the same shall be exempt from the payment of any tax, imposition or assessment whatever. And it shall and may be lawful for the said president and directors at all times hereafter, to demand and receive at some convenient place or places, for all commodities transported through any canal, lock or sluice made by the said company, tolls according to the following table and rates, to wit : for every pipe or hogshead of wine containing more than sixty-five gallons, fifty cents ; for barrels one-fourth part of the price for a pipe or hogshead : for smaller casks in proportion according to the quantity of their contents of wine or spirits ; for casks of linseed oil the same as spirits ; for every hogshead of tobacco, forty cents ; for every bushel of wheat, beans, peas or flaxseed, two and a half cents ; for every bushel of Indian corn, or other grain or salt, two cents ; for every barrel of pork, fish or beef, twenty cents ; for every barrel of flour, twelve and a half cents ; for every ton of hemp, flax or pot ash, one hundred twenty-five cents ; for every ton of iron in bars or manufactured, one hundred cents ; for every ton of pig iron or castings, fifty cents ; for every ton of copper, lead or other ore than iron, one hundred cents ; for every hogshead of rum or other spirits, forty-five cents ; for every ton of stone or iron ore, twenty cents ; for every hundred bushels of lime, fifty cents ; for every hundred weight of cotton in seed, eight cents ; for every hundred weight of cotton (cleaned) thirty cents ; for every chaldron of coals, twenty cents ; for every hundred pipe staves, six cents ; for every hundred hogshead staves or pipe or hogshead heading, four cents ; for every hundred barrel staves or barrel heading, three cents ; for every hundred hogshead hoops, three cents ; for every hundred barrel hoops, two cents ; for every hundred cubic feet of plank or scantling, fifteen cents ; for every hundred cubic feet of other tim-

Tolls.

ber, twelve and a half cents; for every gross hundred weight of all other commodities or packages, six cents; for every cask containing between sixty-five and thirty-five gallons, half the price of a pipe or hogshead; for all other produce, goods, wares and merchandize one-fourth of one per cent.; for every boat or vessel which has not commodities on board to yield so much, one hundred thirty cents: *Provided*, that an empty boat or vessel returning, whose load has already paid at the respective places the sums fixed at each, shall repass toll free. *And provided further*, That the said tolls shall be abated in cases where only a partial navigation shall be effected, in proportion to the length or distance through which any person or persons may pass. The partial charges of toll shall be regulated by the president and directors of the company, in such manner as they may think proper; and if any person or persons shall refuse to pay the tolls at the time of offering to pass the places appointed for their collection, and previous to passing the same, the collectors may lawfully refuse a passage to the person or persons so refusing; and if any boat or vessel shall pass without paying the toll, then the said collectors respectively may lawfully seize such boat or vessel and sell the same at auction for ready money, after advertising the said sale at least ten days; the money arising from which sale, so far as is necessary, shall be applied towards paying the said tolls and all expenses of seizure and sale, and the balance, if any, shall be paid to the owner; and the person having the direction of such boat or vessel, shall be liable for such tolls if the same are not paid by the sale aforesaid.

10. *And be it further enacted*, That as soon as the said company shall have so far completed their works, as that they are ready for the transportation of produce, they shall advertise the same in three of the public newspapers of this state; and the legislature may at the end of twenty-five years thereafter, alter the rates of toll hereby established. But the legislature will not at any time reduce the rates of tollage so as to reduce the profits arising therefrom, below fifteen per centum upon the capital stock.

11. *And be it further enacted*, That the president and directors of the said company shall, every twenty-fifth year after their works are completed and ready for the transportation of produce, make return to the General

When ready for
transportation
to advertise.

Report to General
Assembly.

Assembly of this state, of the amount of toll received by them for the preceding twenty-five years, which return shall be sworn to before some one of the judges of the superior courts of law of this state, or in open court in some one of the county courts.

Navigation public highway.

12. *And be it further enacted*, That the navigation and works of the said company done in pursuance of this act, when completed, shall forever thereafter be considered as public highways, free for the transportation of all goods, wares, commodities or produce whatever, on payment of the tolls imposed by this act; and no other toll or tax whatever for the use of the water of the said navigation, or works thereon erected, shall at any time hereafter be imposed without the consent of this legislature.

Land, &c. to be purchased or condemned.

And whereas it may be necessary for completing the navigation aforesaid, that certain portions of land or rocks in the river should be condemned for the purpose, *Be it further enacted*, That it shall be lawful for the president and directors or a majority of them to agree with the owners of any land or rocks, through which the said navigation is intended to pass, for the purchase thereof; and in case of disagreement, or if the owner shall be a married woman, under age, deprived of reason, or out of the state, on application to any two justices of the county in which said lands or rocks lie, the said justices shall issue their warrant to the sheriff of the county, to summon a jury of eighteen freeholders, not related to the parties and disinterested, to meet on the land to be valued at a day to be expressed in the said warrant, not less than ten nor more than twenty days thereafter, and the sheriff on receipt of said warrant, shall summon the said jury, and when met, shall administer an oath or affirmation to each of them, *Provided*, twelve or more appear, to wit: That he will impartially value the thing in question, and consider all damages the owner thereof may sustain in consequence of being divested of his property therein; and that he will not in his valuation, spare any person through favor, nor injure any one through malice or hatred; and the inquisition so taken shall be signed by the sheriff and twelve or more jurors, and returned to the clerk of the county to be recorded. And in all such cases, the jury is directed to describe the thing valued, and their valuation shall be conclusive; and on payment of the

price or valuation so made as aforesaid by the president and directors, to the owner of the thing valued or his legal representatives, and if neither can be found in the state, or if found, should refuse to receive the money, then to the clerk of the court of pleas and quarter sessions for the county, the said company shall be seised in fee of the thing valued, whether land or rocks, in the same manner as if conveyed to them by the owner by legal conveyance: *Provided*, That such condemnation shall not interfere with dwelling-houses.

13. *And be it further enacted*, That the president and directors, or a majority of them, may agree with the proprietor or proprietors of any quantity of land not exceeding four acres, at or near each place intended for collecting the tolls aforesaid, for the purpose of erecting necessary buildings; and in case of disagreement or any of the disabilities aforesaid, or the proprietor or proprietors being out of the state, the same proceedings may be had, and the same consequence shall follow, as are directed in the next preceding section. Toll-houses.

14. *And be it further enacted*, That it shall and may be lawful for every proprietor to transfer his or her share or shares by deed, executed before two witnesses, and registered, after proof of the execution thereof, in the company's books, and not otherwise except by devise, which devise shall be exhibited to the president and directors, and registered in the books of the company before the devisee shall be entitled to draw any part of the profits from the said tolls: *Provided*, That no transfer shall be made, except for one or more shares, and not for part of such shares; and no share or shares shall at any time be sold, conveyed, transferred or held in trust, for the use or benefit, or in the name of another, whereby the president and directors, or proprietors, members of the said company, or any of them, shall or may be challenged or made to answer any such trust. But every person appearing as aforesaid to be a proprietor, shall as to the others of said company, be to every intent taken absolutely as such; but between any trustee and the person, for whose benefit such trust shall be created, the common remedy may be pursued. Transfer of shares.

15. *And be it further enacted*, That if the said capital shall prove insufficient, it shall and may be lawful for the said company, from time to time to increase their capital by the addition of so many whole shares as shall Capital increased.

be judged necessary by the proprietors, members of the said company, or a majority in interest of them, who shall be present at any general meeting, and on such terms as the said general meeting shall think fit. And the said president and directors, or a majority of them, are hereby empowered and required, after giving one month's notice in one or more of the newspapers published in Raleigh, to open books at the before mentioned places for receiving and entering such additional subscriptions in which the proprietors for the time being, are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid, of taking and subscribing for as many whole shares as any of them shall choose; and the president and directors are hereby required to observe in all other respects, the same rules therein, as are by this act prescribed for receiving and adjusting the first subscriptions; and all proprietors of such additional shares are hereby declared to be from thence forward incorporated into said company.

Time for completing navigation.

16. *And be it further enacted*, That if the said company shall not complete the said navigation so as to admit the passage of boats through the same within twelve years from the first day of January next, all preference in favor of the said company in the said navigation shall be forfeited: *Provided*, That if the said company shall at the expiration of the said twelve years, have completed two-thirds of the said navigation, they shall have a further time of three years, to complete the same.

Defendant may give this act in evidence under general issue.

17. *And be it further enacted*, That the said company and their successors, shall have the power of purchasing, holding and selling real and personal estate; and if any person or persons shall be sued for any thing done in pursuance of this act, he or they may plead the general issue, and give this act and the special matter in evidence, and on a verdict against the plaintiff or plaintiffs, or nonsuit or discontinuance, recover costs of suit.

18. *And be it further enacted*, That all laws and parts of laws coming within the purview and meaning of this act, are hereby declared void and of no effect.

Read three times and ratified in General Assembly, }
December 25, A. D. 1812. }

GEO. OUTLAW, S. S.
WILLIAM MILLER, S. H. C.

A Copy.—WM. HILL, Secretary.

At a General Assembly, begun and held at Raleigh, on the fifteenth day of November, in the year of our Lord one thousand eight hundred and thirteen, and in the thirty-eighth year of the independence of said state. Wm. Hawkins, esq. governor.

CHAP. 850.

An act to amend the militia laws of this state.

(See 1793, c. 378, 1806, c. 708.)

1. *Be it enacted, &c.* That in case of any invasion or insurrection, it shall be the duty of the militia officer highest in command in the county where the same shall happen, immediately to take measures to repel such invasion or to suppress such insurrection, and to give notice thereof to the nearest general officer, whose duty it shall be to send an express without delay to his excellency the governor of the state, informing him of the same, and the nature and extent thereof: In the mean time, the said general officer shall immediately pursue the most effective measures for repelling such invasion or suppressing such insurrection, and the militia thus called out, shall be armed according to law.

Mode of proceeding in cases of invasion or insurrection.

2. *Be it further enacted,* That nothing contained in the fifth section of an act passed in the year 1806, entitled "An act to revise the militia laws of this state relative to the infantry," shall be held or construed to prevent any officer from exercising and training his corps according to the rules of discipline which are or may be established in the army of the United States.

United States' discipline recognised.

3. *And be it further enacted,* That if no immediate opportunity offers for forwarding orders or returns, the certainty of which ensures a speedy delivery thereof, which can be easily ascertained and proved, that then it shall be the duty of the officer issuing the order or making the return (as the case may be) to lodge the same properly directed, in the post-office, marked on the back "Public Service," under which he shall write his name and grade; and a return thus made, shall be deemed sufficient and good in law, any law to the contrary notwithstanding.

How officers are to make returns

4. *And be it further enacted,* That no appeal shall be granted from a company court martial to a regimental court martial, unless the person praying the same shall give security to be approved by the captain or presiding officer of the company court martial, to abide by the decision of the regimental court martial; which appeal

Appeals from company court martials.

shall be taken in like manner as appeals from the judgments of justices of the peace to the county courts, and shall be proceeded on in like manner by the regimental courts martial.

Pay. 5. *And be it further enacted,* That the militia of this state, both officers and soldiers, when called into the service of the state, shall receive the same pay and rations as when called into the service of the United States.

Governor may remit fines. 6. *Be it further enacted,* That the governor for the time being is hereby authorised to mitigate or remit all fines and penalties recovered, or which may hereafter be recovered in any of the courts of justice in this state, against any general or field officer, arising under any of the militia laws of this state.

Ten days' notice of reviews to be given. 7. *Be it further enacted,* That the commanding officer of each regiment or battalion of militia, shall give to the commanding officers of the companies under his command, not less than ten days' notice of battalion or regimental reviews, which may at any time be ordered.

Laws to be compiled, &c. 8. *Be it further enacted,* That it shall be the duty of the adjutant-general to compile the several acts and parts of acts of Assembly now in force relative to the militia, and to cause the same to be printed in pamphlet form, together with the act of Congress of eighth May, one thousand seven hundred and ninety-two, and to be distributed one copy for every general and field officer, and one copy to the commanding officer of each company; and when so printed, to be delivered to the public printer, and by him transmitted to the several county court clerks, with the laws and journals of the General Assembly; and it shall be the duty of the several clerks aforesaid, to deliver the same to the commandants of the regiment or regiments of his county.

Printed and distributed. 9. *And be it further enacted,* That the colonel commandant of each regiment of militia in this state, shall have power, and is hereby authorised and required to call together at the usual place of regimental musters, all the officers of his regiment, and such parts of the non-commissioned officers and musicians, as he may deem requisite, at least three and not exceeding six days in each and every year, for the purpose of mustering, training and establishing uniformity of discipline among them; and it shall be the duty of said officers, to attend to such musters when duly notified thereof, in full uni-

The colonel required to muster their officers three times a year.

form, and equipped with a musket and bayonet, or good and sufficient firelock; cartouch-box, capable of containing 24 rounds; and 12 cartridges—*Provided always*, That the officers of rifle corps shall appear armed with a good rifle, shot-pouch and powder-horn, and twelve rounds of powder and ball.

10. *Be it further enacted*, That the brigadier-general of each brigade shall in like manner, once in two years, call together at some convenient place, within their respective counties, (a) all the officers of such county, (officers of cavalry excepted) for the like purpose; and it shall be the duty of the brigadiers general to muster or cause to be mustered, trained and exercised, the officers aforesaid, at least three days, and not more than six days: And it shall be the duty of the majors general at least once in four years, or oftener if they think proper, to attend the musters of the officers composing their respective divisions; and in case any of the officers required by this act to attend the musters aforesaid, shall fail or neglect so to attend, the said officers respectively so failing or neglecting, shall be subject to the fines and forfeitures following; that is to say: A major-general shall be fined in the sum of sixty dollars; a brigadier-general in the sum of fifty dollars; a colonel in the sum of forty dollars; a major in the sum of thirty dollars; a captain in the sum of twenty dollars; a lieutenant or ensign in the sum of fifteen dollars; a non-commissioned officer or musician in the sum of five dollars; and that such defaulter or defaulters shall be tried, and the fines appropriated in the same manner as is now directed by the militia laws of this State.

11. *Be it further enacted*, That each and every section of the several acts of Assembly, relative to the infantry, which can be applied to the government and disciplining of the artillery, light infantry, grenadiers or riflemen, or which can by construction be applied to them or either of them, is hereby declared to be in force for the government and disciplining of the artillery, light infantry, grenadiers or riflemen, respectively, in the same manner and to all intents and purposes whatsoever, as if each section of the acts aforesaid had been particularly and at full length set forth in this act; any thing in any law, usage or custom to the contrary notwithstanding.

Reviews of
brigadier and
major-generals.

(a Altered by
1814, c. 867,
s. 3.)

Fine.

Artillery, light
infantry, &c.

Punishment for
desertion.

12. *Be it further enacted*, That if any non-commissioned officer or private militia-man while in the pay and service of this state, shall wilfully desert the service or abandon the post assigned to him, without being regularly discharged or permitted by an officer duly authorized for that purpose, such non-commissioned officer or private so deserting or abandoning his post, and being thereof convicted by a court martial having jurisdiction of the offence, shall be adjudged to have forfeited the pay and emoluments due to him at the time of his desertion, and be subject to a fine, not less than twenty and not exceeding fifty dollars, and imprisonment not exceeding six nor less than one month, at the discretion of the court martial; and furthermore turned over to serve as a private soldier in the regular army of the United States, at the discretion of the court martial, not exceeding double the term of time which he had been called out to serve in the militia of this state.

Uniform.

13. *And be it further enacted*, That the uniform prescribed for the officers of the United States, shall be the uniform to be worn in future by the commissioned officers of this state—*Provided nevertheless*, that nothing herein contained shall be so construed, as to compel officers who have already equipped themselves in uniform, to purchase others.

CHAP. 851.

(a See 1799,
c. 520, 1801,
c. 576, 1804,
c. 660, 1805,
c. 674, 1806,
c. 693, 1808,
c. 742, 1810,
c. 785, 1811,
c. 808, 1812,
c. 829, 1818,
c. 962 and 963.)

An act to amend the laws now in force relative to the Supreme Court.(a)

Be it enacted, &c. That the clerk of the supreme court, who shall have or may prepare the same for publication, shall be authorised on his own account, for his own use and at his own expense, to print, publish and vend, and to obtain under this grant, and in conformity to the acts of Congress, the copy right of the reports of the cases argued and determined in the said court: *Provided*, the said clerk secure to the use of the state sixty-two copies of the said reports, to be delivered within two years from this time to the secretary of state, who shall cause the same to be distributed with the laws and journals by the public printer, one copy to each of the clerks of the county courts within this state for the use of said coun-

ty : and that all acts and clauses of acts, coming within the purview and meaning of this act, shall be and the same are hereby declared to be repealed and made void.

CHAP. 852.

An act to amend the several acts regulating the inspection of flour in this state. (a)

(a See 1810, c. 790, 1811, c. 807.)

1. *Be it enacted, &c.* That within twenty days after the first day of January next, the governor shall appoint two persons of good repute, and who shall be skilful judges of flour, to act as inspectors of flour in the town of Fayetteville; and he shall also appoint one person of good repute, and who shall be a skilful judge of flour, to act as inspector of flour in the city of Raleigh; each of which said inspectors having taken the oaths prescribed by law for his qualification, shall have power to inspect flour, and brand the casks containing the same, under the same rules, regulations and restrictions as are prescribed for inspectors of flour in this state: and the said inspectors shall be removable by the Governor for the time being, for proper cause to him shewn.

Governor to appoint inspectors of flour.

2. *And be it further enacted,* That from and after the passing of this act, it shall be lawful for the master, owner, or commander of any boat or craft, to receive on board his boat or craft for transportation from Fayetteville to Wilmington, any barrel or barrels of flour not inspected and branded; any thing contained in any law heretofore passed to the contrary notwithstanding.

Flour may be boated to Wilmington without inspection.

3. *And be it further enacted,* That the several degrees of flour shall in future be distinguished as follows, to wit: superfine, fine, and cross-middling; and it shall be the duty of inspectors of flour at the several places of inspection in this state, to conform their inspection as near as may be to the inspection of flour observed and in use in the adjacent states.

Three degrees of flour.

4. *And be it further enacted,* That each inspector shall have and receive from the owner or owners of flour by him inspected, the sum of five cents for each cask, and no more; and that all acts and clauses of acts, which come within the purview and meaning of this act, be, and the same are hereby repealed and made void.

Inspectors' fees.

CHAP. 853.

(a See 1806, c. 693, 1808, c. 745.) An act for the removal of certain suits in the superior courts of law and equity of this state. (a)

Be it enacted, &c. That from and after the passing of this act, it shall and may be lawful for the parties to any suit now depending, or which may hereafter depend in any of the superior courts of law or equity within this state, to remove such suit by consent, for trial, to any convenient county; which removal by consent shall be entered of record, and thereupon it shall be the duty of the clerk to transfer the papers relating to such suit, in like manner as prescribed for the removal of causes on affidavit of either party, for which he shall receive the same compensation as in cases of that kind, and the court to which such suit shall be so removed shall have full power and authority to proceed to hear and determine the same, as fully as if the same had been originally commenced in such court, any law to the contrary notwithstanding.

CHAP. 854.

An act to provide for the better accommodation of the governors of this state.

1. *Be it enacted, &c.* That the treasurer, comptroller, secretary of state, and Henry Potter, Henry Seawell, William Hinton, Nathaniel Jones, (Crabtree) Theophilus Hunter and William Peace, be, and they are hereby appointed commissioners for the purpose of designing and causing to be erected on such part of the public lands near the city of Raleigh as they may deem most proper, a convenient and commodious dwelling-house, together with such out-houses as to them shall appear necessary, for the accommodation of the chief-magistrate of this state for the time being; and for the purpose of raising the necessary fund for the object aforesaid,

2. *Be it further enacted,* That the said commissioners or a majority of them, shall have full power and lawful authority to sell and convey in fee-simple by instruments of writing, from under their hands and seals, the lot number one hundred and thirty-one in the city of Raleigh, and the houses thereon, occupied at present by the

A dwelling-house to be built.

Lot 131, and other public land to be sold.

governor; and all or any part of the public lands contained within the deed of Joel Lane to the governor for the use of this state, and adjoining the city of Raleigh, on the north, the west and south sides thereof, that is to say, not east of Person street nor east of Sugg's branch.

3. *And be it further enacted*, That said commissioners shall lay off or cause to be laid off into convenient lots of such size as to them may seem most proper, all or such parts of the lands above described as they may deem most advisable; and also lay off the lot number one hundred and thirty-one in the city of Raleigh, the present residence of the governor, into convenient building lots. Lots to be laid off

4. *And be it further enacted*, That when the said lands and lot number one hundred and thirty-one shall be laid off as aforesaid, it shall be the duty of the commissioners or a majority of them, to make an estimate of the value of each lot of land and the several parts of the lot now occupied by the governor, and deposit the same with the treasurer; and they shall not communicate to any person previous to the sale, the affixed value to any lot. And valued.

5. *And be it further enacted*, That the said commissioners shall cause to be laid off within the lines above described, a lot not less than six, and not exceeding ten acres for the purpose of erecting thereon suitable houses for the accommodation of the governors of this state. Site for the buildings.

6. *And be it further enacted*, That the said commissioners shall cause to be set up at public auction the said lots of land, together with the lot number one hundred and thirty-one, and the buildings thereon, first giving sixty days notice by advertisement in the newspapers printed at Raleigh, of the time and place of sale: *Provided always*, that the commissioners shall adopt effectual measures to prevent the bidding off any lot for a less sum than the previous estimation, nor shall any title be made until the purchase-money shall have been paid—*Provided*, that nothing contained in this act shall be construed to empower the commissioners to sell the four unappropriated lots which are situated in the corners of the city. Lots to be sold at public auction.

7. *And be it further enacted*, That the purchasers of the lots of lands shall have a credit of six months for one half the purchase-money, twelve months for the balance, on giving bond with sufficient security, payable Conditions of sale.

to the governor, and negotiable at the state bank ; and the lot number one hundred and thirty-one shall be sold upon the condition that the purchaser or purchasers shall not have possession until other buildings to be provided for the accommodation of the governor be completed, and the purchasers shall be entitled to a credit of six months after being entitled to take possession of said lots, on securing the payment as aforesaid.

Public springs reserved.

8. *And be it further enacted*, That the spring on the public land, north of the city, commonly called Rex's spring, and all such other springs as shall be deemed of public utility by the commissioners aforesaid, together with such quantity of land around the same as the commissioners shall deem necessary, be reserved for public use.

Buildings to be erected.

9. *And be it further enacted*, That the said commissioners shall contract with persons for erecting buildings for the residence of the governor, with suitable offices and outhouses, the principal building, and such others as the commissioners shall think fit, to be of brick or stone, not exceeding in the cost of the whole, five thousand pounds ; and having taken bonds payable to the governor, with security, for the due performance of the undertaking on the part of the contractor, may pass to him any of the bonds received for payment of lots of land sold as aforesaid, or the money received for any of the same upon his said contract : *Provided*, that the commissioners herein named, shall not enter into any contract for the erection of said buildings, unless the proceeds of the lands and lot hereby directed to be sold shall amount to the sum required to complete the said buildings.

Proviso.

Report of proceedings to be made to next Assembly.

10. *And be it further enacted*, That the said commissioners shall make a full and complete return of their proceedings herein, to the next General Assembly, and as often thereafter as they shall be required by the Legislature to do so ; and on the completion of the buildings above directed, and the necessary enclosures, they shall pay over and into the public treasury of the state, the balance of the money remaining in their hands, unapplied, should any be left.

CHAP. 855.

An act to amend an act, entitled "An act concerning proving wills and granting letters of administration, and to prevent frauds in the management of intestates' estates." (a)

(a See 1715, c. 10, 1807, c. 730.)

Be it enacted, &c. That when a testator or testatrix shall appoint any person residing out of this state executor or executrix of his or her last will and testament, it shall be the duty of the court of pleas and quarter sessions before which the said will shall be offered for probate, to cause the executor or executrix named therein to enter into bond with good and sufficient security for his or her faithful administration of the estate of the said testator or testatrix, and for the distribution thereof in the manner prescribed by law; which bond shall be made payable to the chairman of the said court and his successor in office, and the penalty thereof shall be double the supposed amount of the personal estate of the said testator or testatrix, and until the said executor or executrix shall enter into such bond, he or she shall have no power nor authority to intermeddle with the estate of the said testator or testatrix, and the court of the county in which the testator or testatrix had his or her last usual place of residence, shall proceed to grant letters of administration with the will annexed, which shall continue in force until the said executor or executrix shall enter into bond as aforesaid, *Provided nevertheless*, and it is hereby declared that the said executor or executrix shall enter into bond as by this act directed, within the space of one year after the death of the said testator or testatrix and not afterwards; and all persons residing out of this state who have heretofore been appointed executors of any last will or testament of any person residing within this state, shall within twelve months after the passing of this act enter into bond in manner herein prescribed, otherwise all their powers as executors to intermeddle with the goods and effects of his or her testator or testatrix now remaining within this state, shall cease and determine, and the court of the county to which the will of the said testator or testatrix was proved or hereafter shall be proved, shall proceed to grant letters of administration on his or her estate with the will annexed to some discreet person or persons: *Provided always*, That nothing contained in

Executors residing out of the state to give security.

this act, shall affect the rights of such executor, so far as relates to his undertakings for his testator or his power of retainer.

CHAP. 856.

(See 1816, c. 926.)

An act to extend the time for securing entries of land.

Extended to 1815.

1. *Be it enacted, &c.* That all bona fide entries of land in this state, the purchase money of which has been paid to the treasurer of this state, since the first day of January, one thousand eight hundred and six, shall have, until the fifteenth day of December, one thousand eight hundred and fifteen, for surveys to be made and returned to the secretary's office. *Provided nevertheless,* That nothing contained in this act, shall affect grants for lands heretofore bona fide obtained, or entries made.

2. *And be it further enacted,* That this act shall be in force from and after the ratification thereof.

CHAP. 857.

An act providing the means by which the United States may obtain sites for light-houses and fortifications within this state, and for ceding the jurisdiction thereof to the United States.

How to proceed in case owners of land are unknown or refuse to sell at a fair price.

1. *Be it enacted, &c.* That whenever the United States shall desire to obtain sites within this state, for the purpose of erecting fortifications or light-houses thereon, and the owner or owners thereof be unknown or refuse to sell the same for a fair price, and shall by the attorney of the United States for the District of North-Carolina, file with his excellency the governor of this state, a suggestion in writing setting forth their desire to obtain a site or sites for the erection of fortifications or light-houses, and describing in such suggestion the situation of such site and the name of the owner or owners if known; it shall be the duty of the governor forthwith to transmit a copy of such suggestion to one of the judges of the superior courts of law and equity of this state, who shall on receipt thereof issue a writ of *venire-facias* to the sheriff of the county in which such site so required is situated commanding him to summon twenty-four freeholders of his county to appear on

the premises on a day certain, from whom he shall draw by lot a jury of eighteen persons entirely unconnected with the owner or owners of such land, who being duly sworn by the sheriff or his lawful deputy, either of whom is hereby authorised and empowered to administer the oath to the said jurors truly and impartially to value, lay off and allot to the United States the site required, (which in no case shall exceed ten acres,) shall proceed to view, lay off, allot and value such site with the ground thereunto annexed under their hands and seals, in the presence of such sheriff or lawful deputy, who shall deliver the said writ of venire-facias with his return thereon, and the report of the jury under their hands and seals within ten days thereafter to the public register of the county in which such site and lands lie, who shall forthwith register the same in the records of his office; and thereupon the said United States shall on payment of the valuation to the party to whom such land belonged, or if such party refuse to accept the same, or be unknown, on payment of the same into the public treasury of this state, therein to await the order or demand of the rightful owner, be seized thereof for the purpose mentioned in this act. *Provided always and upon express condition,* That such site for the purpose of erecting light-houses and fortifications shall be so used within five years after the filing of such petition, and be used and occupied continually thereafter for such purposes; otherwise such site shall revert to this state.

Proviso.

2. *Be it further enacted,* That so much of an act entitled "an act to cede to the United States of America certain land upon the condition therein mentioned, as cedes Beacon Island and four acres of land at the head land of Cape Hatteras," as relates to Beacon Island, be and the same is hereby revived and declared to be in full force, any law to the contrary notwithstanding: *Provided always and upon express condition,* That a fort be erected upon said island by the U. States within five years after the passing of this act and kept up forever thereafter for the use intended by the erection thereof.

Former acts ceding Beacon Island revived.

3. *And be it further enacted,* That the full and entire sovereignty and jurisdiction in and over such land as may be laid out and paid for, for the purpose of erecting fortifications and light-houses under and by virtue of this act, on or before the first day of December, 1814, (a) be ceded absolutely and entirely to the United States,

The sovereignty, &c. ceded to the U. States.

(a) See 1814, c. 874.

who shall have, use and exercise exclusive jurisdiction, power and authority over the same and every part thereof.

State officers shall serve process on lands so ceded.

4. *And be it further enacted*, That nothing herein contained shall be so construed as to debar or hinder any of the officers of this state from serving any process or levying executions within the limits which may be laid off and ceded by this act to the United States, in the same manner and to the same effect as if this act had never been made.

5. *And be it further enacted*, That this act shall be in force from and after the ratification thereof.

CHAP. 857.

An act concerning the boundary between this state and the state of South-Carolina.

Preamble.

(a) See 1803,
c. 631, 1804,
c. 654, 1806,
c. 696, 1808,
c. 738, 1814,
c. 880, 1815,
c. 885.

Whereas commissioners duly appointed and authorised (a) on the part of this state, and commissioners appointed and authorised in like manner on the part of the state of South-Carolina, did meet on the 20th of July last, near the termination of the line of 1772, in pursuance of an arrangement made by the governors of the two states for the purpose of carrying into effect, the articles of a conventional agreement, entered into at Columbia on the 11th day of July, in the year 1808, and subsequently ratified by the legislatures of the said states respectively : And whereas the said commissioners in various conferences on the matters committed to them having on each part maintained different opinions, as to the practicability of fixing a boundary line, according to the true intent and meaning of the third article of the said conventional agreement ; and not being able to agree thereon, did on the 4th day of September last, by an instrument under their hands and seals, agree to recommend to the legislatures of their states respectively, the following as a substitute for the said third article of the conventional agreement, viz.

A provisional article of agreement, entered into between the commissioners of the state of North-Carolina and the commissioners of the state of South-Carolina, at M'Kinney's, on Toxaway river, on the fourth day of September, in the year of our Lord, one thousand eight hundred and thirteen :

Whereas the undersigned, John Steele, Montfort Stokes, and Robert Burton, on the part of N. Carolina, and Joseph Blythe, Henry Middleton and John Blasingame, on the part of the state of South-Carolina, duly appointed commissioners by their respective states, to carry into effect a conventional agreement on boundary, signed at Columbia, in the State of South-Carolina, on the 11th day of July, 1808, did meet on the 20th day of July last, near the termination of the line of 1772, and have continued their meetings by several adjournments to this present date: And whereas the said conventional agreement, by the third article thereof, provides that from the termination of the line of 1772, a line shall be extended in a direct course to that point in the ridge of mountains which divides the eastern from the western waters, where the 35th degree of north latitude shall be found to strike it, nearest to the termination of the said line of 1772; thence along the top of said ridge to the western extremity of the state of South-Carolina. The commissioners above named, after ascertaining from the observations and reports of the astronomers accompanying them the 35th degree of north latitude at several points, and lastly on the eastern bank of Chatooga river, and after conferring fully on the matters committed to them, perceiving real difficulties to exist in the execution, and having on each part maintained different opinions as to the practicability of fixing on a boundary line according to the true intent and meaning of the said article: Considering nevertheless that it is essential to the interests and convenience of both states that a line of separation and limits should be ascertained and established with as little delay as possible, the said commissioners have agreed and do hereby agree to recommend to the legislatures of their states respectively the following article as a substitute for the said article of the conventional agreement, which substitute when ratified by the legislatures of the said states shall be to all intents and purposes binding and conclusive and not before; viz: From the termination of the line of 1772 a line shall be extended due west to the ridge dividing the waters of the north fork of Pacolet river from the waters of the north fork of Saluda river; thence along the said ridge to the ridge that divides the Saluda waters from those of Green river; thence along the said ridge to where the same joins the main ridge which divides

Article of agreement, entered into by the commissioners of N. and S. Carolina.

the eastern from the western waters, and thence along the said ridge to that part of it which is intersected by the Cherokee boundary line run in the year 1797 ; from the centre of the said ridge at the point of intersection the line shall extend in a direct course to the eastern bank of Chatooga river, where the 35th degree of north latitude has been found to strike it, and where a rock has been marked by the aforesaid commissioners with the following inscription, viz. lat. 35°, 1813. It being understood and agreed, that the said lines shall be so run as to leave all the waters of Saluda river within the state of South-Carolina ; but shall in no part run north of a course due west from the termination of the line of 1772.

In order therefore, that the aforesaid provisional article of agreement may be carried into full and complete effect, *

Article ratified.

Be it enacted, &c. That the said provisional article of agreement, be, and the same is hereby fully ratified and confirmed.

CHAP. 858.

An act further to provide for widows of persons dying intestate.

(See 1796, c. 469, s. 2.)

Whereas by the existing laws the widow of an intestate person cannot have a year's provision assigned to her except out of such specific articles as may belong to the estate, which is often productive of hardships ; for remedy thereof,

Commissioners duty.

Be it enacted, &c. That in all cases where a person dies intestate leaving a widow who shall petition for her year's provision according to the laws now in force, the commissioners to be appointed shall enquire whether there is on hand, a crop, stock and provisions, out of which a sufficient provision can be made for the widow for one year, and if so shall allot to the widow thereout a provision for one year ; and if there shall be no crop, stock or provisions, or not a sufficiency to afford such allowance, the commissioners shall proceed to estimate the value of a year's provision for the said widow and family, and make return under their hands and seals of the said estimate to the next court of pleas and quarter sessions, whereupon it shall be the duty of the court to

Allowance to be made in money.

decree that the same be paid by the administrator, who shall be allowed the same in settlement of his account, and may plead the same, or give it in evidence under the plea of fully administered to any claim which may be brought against him; and such sum shall not be taken into account, so as to bar the widow of any part of her distributive share.

CHAP. 859.

An act to amend an act of the General Assembly passed in the year 1812, entitled "An act requiring notice of their appointment, to be given to overseers of roads, rivers and creeks." (a) (α See 1812, c. 845.)

1. *Be it enacted, &c.* That it shall be the duty of the sheriffs to apply at the office of the clerk of the county court of pleas and quarter sessions, either by himself or some other proper person within ten days after the rise of each court, for the said orders, and shall on receiving them, within twenty days serve each person so appointed overseers of roads, rivers or creeks, with one copy of the said orders, or leave the same at his usual habitation, and the other copy it shall be his duty to return to the next county court happening thereafter, with the date of the service endorsed thereon, or the date when it was left at the residence of said overseer.

2. *And be it further enacted,* That if either of the aforesaid clerks or sheriffs fail or neglect to perform his duty as herein specified, they or either of them shall on conviction before any competent authority pay for such neglect the sum of five pounds, to be applied as other fines of a similar nature.

CHAP. 860.

An act authorising and empowering the secretary of state to transcribe certain old books in his office and for other purposes.

1. *Be it enacted, &c.* That the secretary of state is hereby authorised and empowered to transcribe and copy, or cause to be transcribed and copied in a well bound book or books, one old book in his office containing records of grants and patents commencing from one thousand seven hundred and thirty-four to one thousand

Secretary to transcribe a certain book.

seven hundred and sixty-nine inclusive ; and when said old book shall be thus transcribed and copied, the said book shall be carefully examined and compared with the transcripts by the secretary of state with the original records, and upon ascertaining the fidelity and correctness of said copies he shall carefully pack up the original book and deposit the same in his office among the archives of the state ; and a copy of any grant taken from the said transcript shall be held valid to all intents and purposes, and given in evidence as if taken from the original transcript ; any law to the contrary notwithstanding.

Grants held valid.

Book No. 15, to be bound.

2. *And be it further enacted*, That the secretary of state shall cause to be re-bound in his office and in his presence, book number fifteen, containing grants from one thousand seven hundred and seventy-two, to one thousand seven hundred and seventy-four.

Compensation.

3. *And be it further enacted*. That the secretary of state be allowed as a compensation for transcribing and examining the books aforesaid, and for indexing book number thirteen and for indexing the book containing Armstrong's entries, the sum of one hundred and seventy-five dollars ; and also the further sum of fifty dollars as librarian according to the act of the last General Assembly.

{a See 1809, c. 784.)

Act extended.

4. *And be it further enacted*. That the act passed in the year one thousand eight hundred and nine, entitled "An act^(a) giving further time for the probate and registration of certain deeds issued from lord Granville's office," be, and the same is hereby declared to be and continue in force and operation for two years hereafter, any thing in the law to the contrary notwithstanding.

CHAP. 861.

An act to establish a superior court of law and court of equity in the county of Haywood, and for other purposes.

When to be held.

Be it enacted, &c. That there shall be a superior court of law and court of equity opened and held at the courthouse in the county of Haywood, on the second Monday after the fourth Monday in September next, and on the second Monday after the fourth Monday in March and September in each and every year thereafter ; which

courts shall have the same jurisdiction that the present superior courts of law, and courts of equity, in the several counties in this state now have and exercise.

2. *And be it further enacted.* That the county of Haywood shall hereafter constitute a part of the sixth circuit, and the judge and solicitor who may attend the superior courts in said county, shall be respectively entitled to the same pay for attending said courts, that they are now by law entitled to receive for attending other superior courts in said circuit.

Haywood part
of the sixth cir-
cuit.

3. *And be it further enacted.* That the said superior courts and also the county courts of Haywood shall be held in the same manner, and exercise the same powers and authorities, and be subject to the same laws, rules, regulations and restrictions of the other superior and county courts of the several counties in this state. *Provided always,* that nothing in this act contained shall be so construed as to give the superior courts any jurisdiction of the roads in said county, except the main road leading from Asheville to Waynesville.

To exercise the
same powers &
authorities as
other courts.

4. *And be it further enacted.* That the superior courts hereby established shall in all respects have the same powers as the other superior courts of this state: that a clerk and clerk and master in equity, both men of skill and probity, and residents in the county of Haywood, shall be appointed for the same by the judge attending the first term of said court: The said clerk and clerk and master in equity shall give bonds and security as directed by law for such officers, and take the oaths prescribed for their qualification: the county court of Haywood shall appoint thirty jurors to attend the said court in the same manner that jurors are appointed to attend the other superior courts of this state.

Appointments
to be made.

5. *And be it further enacted.* That all civil cases depending in the superior court of law and equity for Buncombe county, the plaintiffs to which causes reside in Haywood, and also all actions of ejectment and trespass quare clausum fregit, for or concerning lands lying in Haywood county, shall be transferred with the process and proceedings thereon to the superior courts of law of the county of Haywood hereby established: And the provisions of the act passed in the year one thousand eight hundred and six, entitled "An act amendatory and supplementary to an act, entitled, An act for the more convenient administration of justice, passed at the

Cases to be
transferred.

Penalties and
fees.

present session of this General Assembly." for the appointment, summoning and attendance of jurors; for the transmission and receipt of the records, proceedings and papers; for docketing and bringing the causes forward for trial; for summoning witnesses, for issuing original and mesne process prior to the first term of Haywood superior court, and generally for all other purposes, relative to the preparation for trial, and determination of the business of the said court be, and the same are hereby extended to the superior court of Haywood county. The neglects and failures of the several officers of the superior courts of Buncombe and Haywood and of the county court of Haywood shall be subject to the same penalties and forfeitures as are prescribed for similar neglects and failures by the said act; and the said officers shall be entitled to the same fees for their services as are established by the said act for like services.

Alterations and
times of holding
courts.

(See 1806, c.
693, s. 3.)

6. *And be it further enacted,* That the superior courts of the several counties herein after mentioned, shall, after the next spring circuit, be opened and held on the days following, to wit: The superior court for the county of Rutherford, shall be opened and held on the third Monday after the fourth Monday in September next, and on the third Monday after the fourth Monday in March and September in each and every year thereafter; the superior court for the county of Lincoln, shall be opened and held on the fourth Monday after the fourth Monday in September next, and on the fourth Monday after the fourth Monday in March and September in each and every year thereafter; the superior court for the county of Iredell, shall be opened and held on the fifth Monday after the fourth Monday in September next, and on the fifth Monday after the fourth Monday in March and September in each and every year thereafter; the superior court for the county of Cabarrus shall be opened and held on the sixth Monday after the fourth Monday in September next, and on the sixth Monday after the fourth Monday in March and September in each and every year thereafter; and the superior court for the county of Mecklenburg shall be opened and held on the seventh Monday after the fourth Monday in March and September in each and every year thereafter: And all proceedings and process of every kind, depending in and issued from any of the said superior courts, at the

time when the alteration of the terms thereof above prescribed shall take effect, shall stand continued and be returnable accordingly, any law to the contrary notwithstanding.

7. *And be it further enacted*, That nothing in this act contained shall be so construed as to prevent the trial of any cause in the superior court of Buncombe county at the next term thereof.

8. *And be it further enacted*, That all acts and parts of acts that come within the purview and meaning of this act, be, and the same are hereby repealed.

CHAP. 862.

An act to amend an act, entitled "An act to empower the several county courts of pleas and quarter sessions of the several counties in this state to order the laying out public roads, and to establish and settle ferries, and to appoint where bridges shall be built, and to clear inland rivers and creeks."

1. *Be it enacted, &c.* That from and after the passage of this act the said county courts of pleas and quarter sessions shall not appoint or settle any ferry, or order the laying out of any public road, or discontinue or alter such roads as now are or shall hereafter be made, unless upon the petition in writing of one or more persons in the said court filed, and unless such petitioner or petitioners shall make it appear to the satisfaction of the court that all and every such person over whose lands the said road may pass, or whose ferry theretofore established shall be within two miles of the place at which the said petitioner may pray the court to establish a ferry shall have had twenty days' notice of the intention of filing said petition, the court shall cause the said petition to be filed in the clerk's office until the succeeding court, and notice thereof to be posted during the same period at the court-house door, at which court the justices present shall hear the allegations set forth in the said petition, and if sufficient reason be shewn the court shall have full power and authority to appoint and settle the said ferry or to order the laying out, or to discontinue or alter the said roads as the case may be, in the same manner and under the same rules, regulations and restrictions as in the said act contained.

County court not to appoint or settle ferries, nor lay out any public road.
Unless, &c.
(See 1784, c. 227.)

Appeals may be had.

2. *And be it further enacted*, That if any person or persons shall be dissatisfied with the judgment, sentence or decree which the court may pass or pronounce on said petition, such person or persons so dissatisfied may pray an appeal to the superior court of law of the said county, but before obtaining the same shall enter into bond with two or more sufficient securities to be judged of by the said court for the faithful prosecution of said appeal, and for the faithful performance of the judgment, sentence or decree of the said superior court; which bond shall be made payable to the person or persons who shall have filed said petition, or to such person or persons who shall have opposed the same as the case may be, and the appeal so granted shall be subject to the same rules and regulations as appeals in other cases from the county courts to the superior courts; and the said superior court shall proceed to hear and determine the said petition, as shall appear right and expedient. *Provided nevertheless*, that nothing in this act contained shall authorise the superior court to interfere in the fixing or regulating the rates of ferriage, tolls of bridges or the distribution or allotment of hands to work under overseers of the public roads.

Superior court not to regulate ferriage rates.

3. *And be it further enacted*, That this act shall be in force from and after the ratification thereof.

CHAP. 863.

(a See 1809, c. 773.)

An act to amend an act, entitled "An act directing how persons injured by the erection of public mills shall in future proceed to recover damages." (a)

Damages recoverable in case lands be overflowed.

1. *Be it enacted, &c.* That the owners of lands which shall be overflowed by reason of the erection of mills for domestic manufactures, or other useful purposes, shall have the same remedy against the persons erecting such mills or the owners thereof, as is given by the said act against the person or persons erecting grist mills, or the owners thereof.

In case of appeal trial to be had at bar.
(b See 1809, c. 773, s. 2.)

2. *Be it further enacted*, That in all cases, arising under the said act, where either party shall appeal (b) from the county to the superior court, the trial in the superior court shall be had at bar.

5. *Be it enacted*, That the venire issued to the sheriff upon applications under the before recited act, shall command him to summon twenty-four jurors, from whom twelve shall be drawn as the jury to make the enquiry directed by the said writ, each party may challenge either peremptorily or for cause as in other civil cases. Jurors for enquiry.

CHAP. 864.

An act to amend an act passed in the year one thousand eight hundred and ten, (a) entitled "An act to amend an act passed at the last session, entitled 'An act granting to the several counties in this state, all fines, forfeitures, amercements and tax fees, for the purpose of paying the expense of state prosecutions and contingent charges of the counties.'" (b) (a See 1810, c. 799.) (b See 1809, c. 769.)

Be it enacted, &c. That if any clerk and master in equity within this state, shall fail or neglect to pay over to the county trustee, the tax fees on suits in equity, in like manner as tax fees on suits at law, such clerk and master in equity so failing or neglecting shall forfeit and pay the same sum that the clerks of the superior courts of law upon failures of the like nature, by the laws now existing, and to be sued for and recovered in the same manner, any thing to the contrary notwithstanding. Penalty in case of neglect to pay over tax fees to county trustee.

CHAP. 865.

An act to alter the times of holding the superior courts of law and equity for the county of Lenoir. (See 1806, c. 693.)

1. *Be it enacted*, &c. That the superior courts of law and equity for the county of Lenoir, shall after the next term of said court, commence and be holden on the Thursday next after the second Monday after the fourth Mondays of March and September in each and every year thereafter. Lenoir superior court when held.

2. *And be it further enacted*, That all laws and parts of laws coming within the meaning and purview of this act are hereby repealed.

CHAP. 866.

An act to exempt vessels under sixty tons burthen entering Cape-Fear River from paying pilotage.

Certain vessels
not bound to
take pilots.

1. *Be it enacted, &c.* That after the passing of this act, all vessels or boats entering Cape-Fear River, either by the Old Bar or New Inlet, under sixty tons burthen, shall not be compelled to take a pilot, or pay pilotage to any person whatever, except where signals are made for a pilot.

2. *And be it further enacted,* That all acts or clauses of acts in contradiction to this act are hereby repealed and made void.

Read three times and ratified in General Assembly, }
December 25, A. D. 1813. }

GEO. OUTLAW, S. S.
WILLIAM MILLER, S. H. C.

A Copy.—WM. HILL, Secretary.

William Miller,
esq. governor.

At a General Assembly, begun and held at Raleigh, on the twenty-first day of November, in the year of our Lord one thousand eight hundred and fourteen, and in the thirty-ninth year of the independence of said state.

CHAP. 867.

(a See 1806, c.
708, 1812, c.
828, 1813, c.
850.)

An act for the more perfect organization of the militia of this state.(a)

Regulating
drafts.

1. *Be it enacted,* That in all cases where a militia-man shall have performed a tour of service either as a volunteer or drafted militia-man, whether upon the requisition of the United States or of this state, he shall not be liable to stand a second draft until the whole of the militia within his beat or company district shall have performed a like tour of duty.

2. *And be it further enacted,* That the regiment in the county of Ashe, shall be subject to a draft as infantry; any law to the contrary notwithstanding.

Ashe regiment.

3. *Be it further enacted,* That upon any requisition of the United States for a detachment of the militia from this state, it shall be the duty of every captain of infantry to enter upon his roll, all able bodied free men be-

tween the age of eighteen and forty-five years, except such as are exempted by the second section of the act of Congress of one thousand seven hundred and ninety-two, and except the judges of the superior courts of law and equity, and ministers of the gospel regularly ordained, within his beat or company district, and they are hereby declared to be subject to draft: *Provided*, that nothing in this act shall be understood to subject persons heretofore exempted to perform ordinary militia duty: any law or usage to the contrary notwithstanding.

Judges and divines exempted from drafts.

4. *Be it further enacted*, That there shall be to each brigade within this state, one brigade inspector with the rank of major, one hospital surgeon and two mates and one assistant deputy quarter-master-general with the rank of captain, to be appointed by the brigadier-general and commissioned by the governor, which said officers when in the actual service of this state shall receive the same pay and emoluments as officers of the like grade are entitled to in the service of the United States.

Brigade inspectors, &c. to be appointed.

5. *Be it further enacted*, That so much of the eleventh section of the act of Assembly passed in the year one thousand eight hundred and thirteen, entitled "An act to amend the militia laws," as requires major-generals and brigadier-generals to muster the field and company officers, and also the eighth section of the said act, be and the same is hereby repealed and made void.

Part of former act repealed.

6. *Be it further enacted*, That the first section of an act passed in the year one thousand eight hundred and twelve, (a) "to amend the militia laws of this state," is hereby repealed and made void: *Provided*, that the captains and other returning officers, shall designate by proper columns the free persons of colour from the rest of the militia of this state.

Free negroes required to be enrolled.

(a C. 828.)

7. *And be it further enacted*, That all that part of the fourteenth section of an act passed at the last General Assembly, entitled, "An act to amend the militia laws of this state," as respects non-commissioned officers and privates is hereby repealed and made void.

CHAP. 868.

An act to extend the time for perfecting titles to land. (b)

(b See 1811, c. 825.)

Be it enacted, &c. That all bona fide entries of land in this state the purchase-money of which has been paid to

Time given till 15th Dec. 1816. the public treasurer, since the first day of January one thousand seven hundred and ninety-six, shall have until the fifteenth day of December in the year of our Lord one thousand eight hundred and sixteen, for surveys to be made and returned into the secretary's office: *Provided*, That no grant to be obtained under any survey to be made under this act shall affect or impair the title of any lands heretofore bona fide acquired by grant from the state: *Provided*, That this act shall not be construed to affect any entries made prior to one thousand eight hundred.

CHAP. 869.

(a See 1816, c. 928, 1819, c. 1007.)

An act concerning divorce and alimony.(a)

Causes for divorce.

1. *Be it enacted, &c.* That where a marriage hath been heretofore or shall be hereafter contracted and celebrated between any two persons, and it shall be adjudged in the manner hereinafter mentioned, that either party at the time of the contract was and still is naturally impotent, or that either party has separated him or herself from the other, and is living in adultery; in every such case it shall and may be lawful for the injured person to obtain a divorce either from bed and board or from the bonds of matrimony, at the discretion of the courts.

How to proceed

2. *Be it further enacted*, That where any person has been or shall hereafter be injured in either of the ways above mentioned, the husband or wife may exhibit his or her petition or libel to one of the judges of the superior courts of law in this state in term time, or to one of the judges in the vacation, at least thirty days before the next term, setting forth therein particularly and especially the causes of his or her complaint; and shall together with such petition or libel exhibit an affidavit on oath, taken before one of the judges of the superior courts, or some justice living in the county where he or she resides, that the facts contained in the said petition or libel are true to the best of his or her knowledge and belief, and that the said complaint is not made out of levity or by collusion between the said husband and wife, and for the mere purpose of being freed and separated from each other; but in sincerity and truth for the causes mentioned in the said petition or libel.—Bond with sufficient se-

curity for the prosecution of the same being first given as required in other cases at law ; and thereupon a subpoena may and shall issue from the said court, directed to the person so complained against, commanding him or her to appear at the next superior court of law to be held for the said county, then and there to plead or answer to the said petition or libel ; and upon due proof at the return of the said process that a copy thereof was served either personally on the said party or that he or she could not be found, and that a copy thereof was left at his or her usual or last place of abode in said county, at least fifteen days before the day of the said return inclusive ; if he or she shall refuse or neglect to appear, then an alias subpoena shall issue, returnable to the first day of the next term, and be served personally in manner aforesaid ; but if he or she cannot be found, then proclamation shall be publicly made by the sheriff at the door of the court-house, for the party to appear and answer as commanded by the subpoena ; and that notice thereof be given in two newspapers, such as the court may order, for three months ; and in the mean time the said court shall and may make such preparatory rules and orders in the cause as may be necessary to prepare the same for trial, when the court may determine *ex parte*, if necessary : *Provided always*, That in all suits commenced under this act, the material facts charged in the said petition or libel shall be submitted to a jury, upon whose verdict, and not otherwise, the court shall decree—any rule or practice to the contrary notwithstanding.

Bond and security required.

3. *Be it further enacted*, That in any action or suit commenced in any of said courts for a divorce for the cause of adultery, if it shall be proved that the plaintiff has been guilty of the like crime, or has admitted the defendant into conjugal society or embraces after he or she knew of the criminal fact, or that the said plaintiff (if the husband) allowed of his wife's prostitution or exposed her to lewd company whereby she became ensnared to the crime aforesaid, it shall be a good defence and a perpetual bar against the said suit.

No divorce where both are guilty.

4. *Be it further enacted*, That it shall and may be lawful for the superior court aforesaid, after hearing any cause commenced in virtue of this act, to determine the same as to law and justice shall appertain, by either dismissing the petition or libel, or sentencing and decree-

Divorces must
be ratified by
the Assembly.

(a So much of
this act as re-
quires the ratifi-
cation by Gene-
ral Assembly, re-
pealed by 1818,
c. 266.)

Alimony may
be allowed.

Facts to be
proved.

ing a divorce and separation from nuptial ties or bond of matrimony, or that the marriage is null and void, agreeable to the prayer thereof; and such court shall have power to decree alimony to the wife in the case of general divorce upon the petition of the wife: *Provided*, That no judgment, sentence or decree of final and absolute divorce from the bonds of matrimony shall be valid until ratified by the General Assembly of this state; and that after such sentence so nullifying or dissolving the marriage, and its ratification by the General Assembly, (c) all and every the duties, rights and claims of the parties in right of said marriage shall cease and determine, and the complainant or innocent person shall be at liberty to marry again as if he or she had never been married: *Provided always*, that nothing herein contained shall be construed to extend to affect or render illegitimate any child or children born of the body of the wife during the coverture.

5. *Be it further enacted*, That if any person shall either abandon his family or maliciously turn his wife out of doors, or by cruel or barbarous treatment endanger her life, or by other such indignities to her person as to render her condition intolerable or life burthensome, it shall and may be lawful for the superior court, upon complaint and due proof made in manner aforesaid, to grant a divorce from bed and board, and also to allow her such alimony as her husband's circumstances will admit, not exceeding one-third part of the annual income or profits of his estate, or of his occupation or labours, or by assigning to her separate use, such part of the real and personal estate of the husband as the court shall think fit, not exceeding one-third part of the husband's estate, as the justice of the case may require; which shall continue until a reconciliation shall take place between the parties. *Provided always*, that nothing herein contained shall be construed in any wise to affect the rights of any creditor or creditors of the husband.

6. And to guard the persons thus injured against the heat of momentary passion, and to afford time for reflection and opportunity for reconciliation, *Be it enacted*, that no petition shall be sustained in said courts unless the petitioner shall state and swear that the facts the ground of his or her complaint have existed to his or her knowledge at least six months prior to the filing of

the said petition; and no decree shall be made in any case under this act until at least twelve months after the filing of the said petition.

7. *And be it further enacted*, That no person not a citizen of this state at the time of passing this act, or who shall not have resided within this state three years immediately preceding the exhibition of his or her petition, shall be entitled to sue under this act. Persons not entitled to the benefit of this act.

8. *And be it further enacted*, That in all cases brought under this act, the parties may take testimony by depositions under the same rules, regulations and restrictions as exist in suits in equity in this state.

9. *Be it further enacted*, That a tax to the state of ten pounds shall be paid by the party cast upon every case under this act. Tax to the state.

10. *Be it further enacted*; That the court may award costs to the party in whose behalf the sentence or decree shall pass, or that each party shall pay his or her own costs as to the court shall appear reasonable. Costs.

11. *Be it further enacted*, That the husband against whom alimony or separate maintenance may be decreed shall give good and sufficient security in open court, to be approved by the court, for the faithful performance of the same; and in case of failure, shall stand committed until the order or decree of the court is complied with, or the court may direct execution to issue as in cases at law, for the money thus decreed, and a writ of venire to the sheriff to summon a jury to lay off and allot the real or personal estate decreed to the wife: *Provided*, that no process shall issue from the court to carry the decree into execution until the same shall have been ratified by the General Assembly and an authentic copy of such ratification filed with the clerk of the court, before whom the cause was tried. Security for alimony required.

CHAP. 870.

An act to continue in force certain acts concerning the banks of Cape-Fear & Newbern and for other purposes concerning the said banks. (a See 1804, c. 661 and 662, 1807, c. 714.)

1. *Be it enacted, &c.* That the act entitled “an act to establish a bank in the town of Wilmington,” and so much of an act entitled “an act to incorporate the Newbern Marine Insurance Company, and to establish a Former acts continued.

bank in said town" passed in the year one thousand eight hundred and four, as relates to the bank of Newbern; and all other acts subsequently passed, relating to the management, direction and affairs of said banks; be and the same are hereby continued in force until the first day of January in the year of our lord one thousand eight hundred and thirty-five; except as hereinafter provided for.

Additional
shares.

2. *Be it further enacted*, That the president and directors of the bank of Cape-Fear, shall be, and they are hereby authorised to add to the capital stock of said bank five thousand two hundred and fifty shares, and the president and directors of the bank of Newbern, shall be and they are hereby authorised to add to the capital stock of said bank five thousand seven hundred and fifty shares, of one hundred dollars each.

Places for open-
ing books of
subscription.

3. *Be it further enacted*, That the president and directors of the banks of Cape-Fear and Newbern shall within six months after notice given to the governor of this state in the manner hereinafter prescribed, of the acceptance of the amended charter by the stockholders in the said banks respectively, open books for receiving subscriptions to the said stock at the city of Raleigh, and the towns of Wilmington, Newbern, Fayetteville, Edenton, Halifax, Hillsborough, Washington, Warrenton, Salisbury, Tarborough, Morganton, Pittsborough, Salem, Rutherfordton, Plymouth, Murfreesborough and Greensborough, and in Nash county; and keep the same open for receiving subscriptions to the said stock until the whole stock authorised by this act shall be subscribed. But all shares not subscribed for within forty days after opening the books as aforesaid shall be sold and disposed of by the said president and directors respectively at such price as they may think proper, not exceeding an advance of ten dollars on each share; and purchasers of shares after the expiration of the said forty days shall pay down at the time of subscribing with the first instalment, the advance required by the said president and directors, and shall then stand upon the same footing with those who subscribe within the said forty days according to the payments they may have made.

4. *Be it further enacted*, That ten dollars upon each share subscribed shall be paid at the time of subscribing and the remaining ninety dollars in payments of ten dol-

lars every sixty days thereafter until the whole shall be paid; the said deferred payments bearing interest at the rate of six per centum per annum until paid; and it shall be at the option of each subscriber to fill up his share or shares by payment of the residue of the money due thereon; and each subscriber paying in advance shall have a discount at the rate of six per centum per annum on such advance. When fifty dollars on any share shall be paid, the holder thereof shall be entitled to receive dividends on the whole share; and on failure to make payment punctually of any of the said first mentioned five instalments on every share; the subscriber so failing shall forfeit to the use of the company, all the money that has been previously paid on such share: and such share shall be sold by the president and directors for the benefit of the company, but there shall be no forfeiture after the payment of fifty dollars on each share.

Times for payments.

Shares forfeited

5. *Be it further enacted*, That the president and directors of said banks shall at all times from and after the passing of this act and during the continuance of the same, be bound and obliged to make a loan or loans to the state of North-Carolina, if required and authorised by law, of any sum or sums of money not exceeding in the whole at any one time one tenth part of the actual stock of said banks respectively, and at a rate of interest not exceeding six per centum per year to be paid yearly: *Provided*, that it shall be the duty of the treasurer to make application in writing to the president and directors of said banks for such loan or loans at least three months previous to the time when such loan or loans shall be required.

Banks required to loan the state.

6. *Be it further enacted*, That of the shares hereby allowed to be subscribed to the stock of the said banks one thousand shares in each shall be reserved for this state and subscribed by the treasurer immediately upon the opening of the books for receiving subscriptions as aforesaid: and as a consideration of this amended charter granted to the said banks, the state shall be entitled to one hundred and eighty shares of the said one thousand shares in each bank aforesaid, without paying any thing therefor; and at the expiration or earlier dissolution of the charter, the president and directors of the banks shall pay to the treasurer for the use of the state the same rate of dividend on the said shares, together

1,000 shares reserved to the state.

with the shares as may be paid to other stockholders; and shall be entitled to make payment for four hundred and ten shares in each of the said banks in treasury notes to be issued as herein after directed; and shall be entitled to make payment for the remaining four hundred and ten shares in each bank at any time or times she may think proper during the continuance of this act, and shall not be bound to pay to either of the said banks interest upon the shares not paid for. But the interest which may accrue thereon shall be accounted for as herein after directed.

Dividends accruing to the state.

7. *Be it further enacted*, That the state shall be entitled to receive full dividends upon the one hundred and eighty shares in each bank, mentioned in the preceding section: and like dividend upon four hundred and ten shares in each bank, to be paid for in treasury notes after the second dividend to be declared by the said president and directors after the first day of February next; and from and after the declaration of the said second dividend, the state shall be entitled to receive whatever sum shall accrue upon the remaining four hundred and ten shares in each bank over and above six per centum per year, and the same dividend shall be declared upon the said remaining shares, as upon shares which have been fully paid for.

Election of stockholders.

8. *Be it further enacted*, That at all meetings of the stockholders of the said banks, and at all elections for directors, the governor for the time being, or such other person or persons as he or the legislature may from time to time appoint, shall act on behalf of the state; and shall have the same number of votes, to which the greatest number of stockholders may be entitled possessing an equal number of shares, with those owned by the state at the time of such election; and the number of votes to which each stockholder shall be entitled, except the state, shall be according to the number of shares he shall hold in the proportions following, that is to say: for one share and not more than two shares one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote; but no person, copartnership or body politic shall be entitled to a greater number than

thirty votes. No share or shares shall confer a right of suffrage which shall not have been holden three calendar months previous to the day of election. Stockholders actually resident within the state, and none other may vote in elections, and at general meetings of the stockholders, by proxy; none but a stockholder being a citizen of the state, and holding at least ten shares, shall be eligible as a director of the principal bank, nor shall a director of any other bank, be eligible as a director of either of the said banks. Eleven principal directors shall be elected by the stockholders in each bank at their annual meeting for the well ordering of the affairs of the said corporations, seven of whom being directors of the Cape-Fear Bank, shall reside in the town of Wilmington; and seven being directors of the Bank of Newbern shall reside in the town of Newbern. The board of principal directors of each bank shall appoint annually the directors of the several branches and agencies: and other officers required at the said branches and agencies.

A number of stockholders not less than thirty, who together shall be proprietors of one hundred shares or upwards, shall have power at any time to demand a general meeting of the stockholders for purposes relative to the said corporations respectively: And upon such demand the president of the bank shall call such meeting, giving at least four weeks' notice in a public gazette published in the city of Raleigh, and specifying in such notice, the object or objects of such meeting. Every cashier of the said banks before he enters upon the duties of his office shall be required to give bond with two or more securities to the satisfaction of the directors, in a sum not less than ten thousand dollars with condition for his good behaviour. The total amount of the debts which either of the said corporations shall at any time owe, whether by bond, bill, note or other contract, shall not exceed the sum of two millions four hundred thousand dollars, over and above the sum then actually deposited in the said banks respectively for safe keeping, unless the contracting of any greater debt shall have been previously authorised by a law of this state.

In cases of excess, the directors under whose administration it shall happen shall be liable for the same in their natural and private capacities; and an action of debt may in such case be brought against them, or any

Calling of stockholders.

Cashiers shall give bond and security.

Restriction in discounts.

Directors liable in certain cases.

of them, their or any of their heirs, executors or administrators, in any court of record of this state, by any creditor or creditors of said corporations, and may be prosecuted to judgment and execution: any condition, covenant or agreement to the contrary notwithstanding: But this shall not be construed to exempt the said corporations, or the lands, tenements, goods, or chattels of the same from being also liable and chargeable with the said excess; such of the said directors who may have been absent when the said excess was contracted, or created, or may have dissented from the resolution or act, whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, with or before some notary public, and to the stockholders at a general meeting, which they shall have power to call for that purpose.

When required, treasurer to be furnished with a statement of the situation of the bank.

The treasurer of this state shall be furnished from time to time, as often as he may require, not exceeding once in three months, with a statement of the amount of the capital stock of each of the said corporations, and of the debts due to each; of the monies deposited in each, of the notes in circulation, and of the cash on hand, and shall have a right to inspect such general accounts in the books of the said corporations, as shall relate to the said statements: *Provided*, that this shall not be construed to a right of inspecting the account of any private individual or individuals with the said banks.

When the paper currency shall cease to be a tender.

9. *Be it further enacted*, That from and after the first day of January, in the year one thousand eight hundred and sixteen, the paper money issued by this state in the year one thousand seven hundred and eighty-three, and one thousand seven hundred and eighty-five, shall cease to be a tender to or from either of the said banks, except to the State Bank.

Parts of former acts repealed, and the banks prohibited from issuing notes less than \$1.

10. *Be it further enacted*, That the president and directors of the said banks of Cape-Fear and Newbern shall not issue any note or notes under the sum of one dollar; and from and after the first day of July next, the eleventh section of an act passed in the year one thousand eight hundred and four, entitled "An act to establish a bank in the town of Wilmington," and the twelfth section of an act passed in the same year, entitled "An act to incorporate the Newbern Marine In-

insurance Company, and to establish a bank in said town;" also an act passed in the year one thousand eight hundred and nine, entitled "An act to regulate the banks of Newbern and Cape-Fear in certain cases," shall be, and the same are hereby repealed and made void.

11. *Be it further enacted*, That a tax of one per cent. per annum shall be levied on all stockholders in each of the banks of Cape-Fear and Newbern, except on the stock holden by this state, which shall be paid to the treasurer of this state, by the presidents or cashiers of said banks, on or before the first day of October in each and every year. Tax of one per cent.

12. *Be it further enacted*, That the treasurer of this state, be, and he is hereby authorised and directed, as soon as he can conveniently do the same, to issue treasury notes to the amount of eighty-two thousand dollars, of the following denominations, to wit: of five cents, ten cents, twenty cents, twenty-five cents, thirty cents, forty cents and fifty cents; and the notes shall have such margin and devices as the treasurer shall think proper to adopt—shall be made payable to bearer at the treasury of this state—shall be dated and signed by the treasurer, and immediately be paid over by him to the cashiers of the banks of Cape-Fear and Newbern in equal portions, thereby paying to each of the said banks for four hundred and ten shares of stock in each, to be subscribed for the state as aforesaid. The said treasury notes shall not bear interest. They may be thrown into circulation by the said banks, and they shall be redeemed by the treasurer from time to time as they shall be presented for payment; but by him may again be circulated, and they shall be receivable in debts and taxes due to the state. Treasury notes to be issued.

13. *Be it further enacted*, That the presidents of the banks of Cape-Fear and Newbern, shall make known to the governor of this state in writing, within four months after the first day of January next, their acceptance of this amended charter; and in case they fail to do so, this act and every part thereof shall become void, and of none effect. Acceptance of this act to be communicated to the governor.

14. *And be it further enacted*. As a condition and further consideration for the privilege hereby granted, that if by the common consent of the stockholders in the State Bank of North-Carolina, or otherwise, the charter of the said bank should be dissolved previous to the Bank to redeem paper money in case the state bank charter should be surrendered.

eighteenth day of December, in the year one thousand eight hundred and sixteen, and before the said banks shall have taken up and withdrawn from circulation the whole of the paper money of this state, issued in the year one thousand seven hundred and eighty-three, and one thousand seven hundred and eighty-five, and before the said paper money shall be actually redeemed by the state in the manner prescribed by an act passed in the year one thousand eight hundred and eleven, entitled, "An act in addition to the act entitled, An act to redeem the paper currency now in circulation, and to establish a bank by the name and title of the State Bank of North-Carolina, passed in the year one thousand eight hundred and ten:" the said banks of Cape-Fear and Newbern shall, within two weeks after notice of such dissolution from the public treasurer (which notice the said treasurer is hereby directed to give) cause public notice to be given by advertisement in the papers published in the city of Raleigh for six weeks, that they will for the term of one year, commencing on the day of the said advertisement, and following next thereafter, take up and exchange all the paper currency of the state, which shall be presented for the purpose of being taken up and exchanged, at the said banks or any of their branches, by giving in exchange therefor, in notes of said banks, or gold or silver at the option of the holder of the paper money, the full sum to which the paper money so to be presented shall amount, after the rate of one dollar for every ten shillings of the said paper money. And it shall further be the duty of the said president and directors actually to take up all the paper money of the state, which shall within the said term of one year be presented for exchange as aforesaid: and to give in exchange therefor in the notes of the said banks, or in gold or silver, at the option of the holder of the paper money, after the rate of one dollar for every ten shillings of the money to be presented for exchange as aforesaid; and upon its being made appear to the satisfaction of the governor, by the president and directors of the said banks, at any time within six months after the expiration of the twelve months heretofore mentioned in this section of this act—that the said president and directors have faithfully complied with the preceding terms, and have given the required notice at the time and in the manner above prescribed, and have actually taken in all the paper money

of the state which shall have been presented to the said banks or any of their branches in pursuance of the notices above prescribed, and faithfully paid therefor in the manner and after the rate above prescribed; it shall be lawful for the governor of the state to make known the same by proclamation; and in the said proclamation to declare that the said paper money shall thenceforward cease to be a tender.

15. *And it is hereby further declared*, That on the date of the said proclamation, that the said paper money shall cease to be a tender in all cases whatever, except in payments to be thereafter made to the said banks. In all which payments to the said banks it is hereby declared it shall thereafter be a tender; and when received by the said banks, shall not again return into circulation by any means whatever: but remain in their vaults until redeemed and destroyed in the manner herein after prescribed: *Provided always*, That if the fund established for the redemption of the said paper money shall not effect the entire redemption thereof, before the charters of the said banks shall expire, or by common consent of the stockholders or otherwise be dissolved; then and in that case the said paper money shall again be considered a tender in all payments whatsoever, as heretofore.

Paper money to cease to be a tender.

16. *Be it further enacted*, That the dividends accruing on all shares in the said banks of Cape-Fear and Newbern held by the state, shall be applied as the said dividends shall be declared, to the redemption of the paper money remaining in the vaults of the said banks, which paper money, when so redeemed, and paid over to the state or its agent the public treasurer, shall by the said treasurer in the presence of the comptroller and secretary of state, be burnt and destroyed: and in case the state should hold no shares in the said banks on the said eighteenth day of December in the year one thousand eight hundred and seventeen, said paper money may be delivered by the said president and directors to the public treasurer for the use of the state, and shall be considered as a part of the sum which the said banks are by this act authorised and required to lend to the state.

Application of the state's dividends.

17. *And be it further enacted*, That the president and directors of said banks may establish branches or agencies of their said banks at such place or places within this state, as they may think proper, and commit the

Branches or agencies.

management of said branches and agencies and the making discounts thereat to such persons as they may deem proper: *Provided*, that at each branch or agency so to be established, there shall be appointed not less than three directors, and that no such branch or agency shall be removed after its establishment unless directed by the stockholders in their general meeting.

CHAP. 871.

An act to amend an act passed in the year one thousand seven hundred and forty-one, entitled "An act for the better observation and keeping the Lord's Day, commonly called Sunday, and for the more effectual suppression of vice and immorality." (a)

(a See 1741, c. 50, s. 10 & 11.)

Preamble.

Whereas by the before recited act whenever a single woman shall upon oath before two magistrates according to its provisions, accuse any man with being the father of her bastard child or children, such person so accused shall be adjudged the reputed father of such child or children and stand charged with the maintenance thereof: and whereas the said act by rendering the oath of the woman alone conclusive evidence of the fact, so far from operating as a suppression of vice and immorality, has a contrary effect:

The accused entitled to trial by jury.

1. *Be it enacted, &c.* That whenever any man shall in the manner prescribed in the before recited act be accused by any single woman of being the father of her bastard child or children, the person so accused shall upon the return to the county court of the recognizance, capias or attachment, as the case may be, be entitled to have an issue made up to try whether he be the father of such child or children; upon the trial of which issue the examination of the woman upon oath taken before two justices of the peace in the manner prescribed by the aforesaid act and returned to court, shall be prima facie evidence only against the person so accused. And if the jury shall, upon the trial of such issue, find that the person so accused is the father of such child or children, he shall stand charged with the maintenance thereof in the manner prescribed by the said act: but if the jury shall find that he is not the father of such child or children, he shall be discharged. And all examinations upon oath to accuse or charge any man of being the father of a bastard child shall be had and taken within

Evidence of the woman considered prima facie only.

three years next after the birth of said child, and not after.

2. *Be it further enacted*, That all costs which shall accrue upon the trial of any issue under this act, shall be paid by the party claiming the benefit of such issue. Costs.

3. *And be it further enacted*, That the officer prosecuting in behalf of the county, shall and he is hereby authorised to appeal to the superior court of law in all cases where he shall think that justice has not been obtained in the trial of any issue. Appeals may be had.

CHAP. 872.

An act to amend the revenue laws of this state, and to provide a revenue for the payment of the civil list and contingent charges of government. (a) (See 1819, c. 999.)

1. *Be it enacted, &c.* That the tax on all lands and their improvements throughout this state shall be levied and collected in the following manner, to-wit: the justices of the peace appointed to take the lists of taxable property within the several counties of the state according to the direction of the act of the General Assembly passed in the year one thousand eight hundred and one, entitled, "An act to fix an uniform time for taking the list of taxable property throughout the state and for enforcing the collection of taxes," shall, after giving due notice thereof according to the direction of the before recited act, require each and every person liable to pay land tax either by lease or otherwise to list each and every tract of land by him, her or them holden within the county, stating the number of acres of each separate tract, its local situation and its reasonable value, including improvements thereon: and where the dividing line between two counties runs through any tract of land, the owner of the said land may list the same in either county: and it shall be the duty of guardians to list the lands of their wards being minors; and also the duty of Manner of levying and collecting taxes.

(a NOTE. The principal provisions of this act are to be found in the revenue act of 1819, c. 999, with some modifications; but as this was the period at which a radical change was made in the imposition of taxes on lands and their improvements, and as this act has repealed parts of several other acts upon the subject of taxes and their collection, and the 18th and 19th sections seem to be of a permanent nature it is thought best to retain it.)

guardians of lunatics and persons non compos mentis to list the lands belonging to the said lunatics and persons non compos mentis. And if any person holding lands, or any guardian of a minor, lunatic, or person non compos mentis shall fail to list the lands which he is bound to list by this act, he shall pay a double tax, to be collected by the sheriff out of the property of the person bound to list the said lands, by distress or other mode heretofore used in such cases.

Justices to furnish clerks with a list of lands, &c.

2. *And be it further enacted*, That the justices appointed as aforesaid shall make out a fair copy of the list of lands by him taken with the number of acres and valuation annexed, and return the same together with the list of other taxable property by him taken to the clerk of the county court at the next succeeding county court which may happen after the time prescribed by law for taking the list of taxable property. And the clerks of the several county courts are hereby required to return to the comptroller a list of such property and the owners' names thereof, with the number of acres of each tract, and the valuation of the same as is by law already established and required, on or before the first day of September in each and every year hereafter.

Clerks to furnish sheriffs with returns.

3. *And be it further enacted*, That the clerks of the several county courts shall within forty days after the justices have made their returns, deliver to the sheriff of the county a fair and accurate copy of the returns made by the justices as aforesaid; and in case of failure thereof to be under the same rules and penalties as are already prescribed by law. And the respective sheriffs shall proceed after the first day of March in each and every year to collect the said taxes, and shall account for the same on or before the first day of October in every year, under the same rules and penalties as are now by law established.

Valuation of the lands.

4. *And be it further enacted*, That when lands, the property of non-residents, shall not have been given in according to the directions of this act, the justices taking the list of taxables or the sheriff of the county, either from their own knowledge or from information lodged of the fact, shall summon one freeholder in the neighbourhood of such lands, whose duty it shall be within five days of such notification to proceed on said lands and on oath value the same, describing as far as may be the local situation and number of acres thereof; and

it shall be the duty of the freeholder summoned as aforesaid to transmit under his hand a fair transcript of such valuation to the clerk of the county court within ten days from his assessment, and that the said freeholder shall receive a compensation for his services as assessor, of one dollar for each tract by him assessed, to be levied and collected by the sheriff, if not previously paid by the owner, at the time the sheriff shall collect the public tax due on such land.

5. *And be it further enacted*, That all town lots and their improvements shall be assessed as is by law now required and directed: *Provided always*, that such valuation or assessment shall take place at the same time that land and other taxable property are given in within the several counties of this state, and that the assessors shall make return thereof to the clerks of the county courts at the same time as is required by law for justices of the peace to make return of the lists of taxables taken by them under the penalty of forty dollars for such neglect, to the use of the county.

Assessment of town lots.

6. *And be it further enacted*, That if any justice of the peace at the time of his receiving a list of taxable property, entertains the opinion that the person or persons giving in his, her or their list of taxable property manifestly undervalues the same, said justice of the peace may summon two freeholders acquainted with the land, whose duty it shall be to value the same.

Justice may require a jury to re-value land.

7. *And be it further enacted*, That all residents who shall fail to give in the valuation of his, her or their lands within the time prescribed by law shall be liable to pay a double tax; and it is hereby declared to be the duty of the justice who takes the list as aforesaid upon his knowledge of any such failure to summon two freeholders, whose duty it shall be to value the same and return such valuation to said justice.

Land not given in to pay double tax.

8. *And be it further enacted*, That the valuation of lands and their improvements as required by this act shall be made in dollars and cents, and that lands hereafter liable to be sold for the taxes, shall be sold as heretofore, and under the same rules and regulations as by law already established.

Valuations to be made in dollars and cents.

9. *And be it further enacted*, That for the year one thousand eight hundred and fifteen there shall be levied and collected from all lands assessed and returned as aforesaid the sum of eight cents on each hundred dollars value thereof.

Tax of 8 cents on each \$100 worth.

On stud-horses
and jack-asses.

10. *And be it further enacted*, That for the year one thousand eight hundred and fifteen, a tax on all stud-horses and jack-asses within this state of the full sum which the owner or keeper of such stud-horse or jack-ass shall ask, demand and receive for the season of one mare, shall be levied, collected and accounted for in the same manner as such taxes have heretofore been levied, collected and accounted for.

Tax on pedlars.

11. *And be it further enacted*, That each and every person who shall hereafter peddle or hawk in any county in this state, and not on a navigable stream, goods, wares or merchandize, shall pay to the sheriff of each and every county in which he or she may so peddle or hawk goods, wares or merchandize, the sum of six dollars as a tax, which tax shall be accounted for by the sheriff in like manner as other taxes, and on paying such tax and obtaining a receipt therefor, such person shall be authorised and permitted to peddle and hawk as aforesaid in such county and no other for the term of one year thereafter. And every person who shall peddle or hawk goods, wares or merchandize on any navigable stream in this state shall pay to the sheriff of each and every county in which he or she shall so hawk or peddle, twenty dollars as a tax to the state to be accounted for as above, and on payment thereof shall be authorised and permitted to peddle and hawk as aforesaid in such county and in no other for the term of one year thereafter; and each and every person who shall hawk or peddle in any county without having previously paid the tax thereon as herein before directed, or who shall refuse or neglect, upon request by the sheriff or his lawful deputy to shew a license therefor, shall be liable to a forfeiture of one hundred dollars to be collected by the sheriff of said county by distress and sale of any of the property of such delinquent, and to be applied one half to the use of the state and the other half to the use of the said sheriff.

Tax on whole-
sale and retail
merchants.

12. *And be it further enacted*, That every merchant who shall sell goods, wares or merchandize in any store to the amount of four hundred dollars in one year, shall pay a tax on each and every such store, if a wholesale merchant, of sixteen dollars, and if a retail merchant, of six dollars, and every such merchant shall give in such store or stores in the list of his taxables under the same rules and regulations as other taxables are given

m. And the tax thereon shall be levied, collected and accounted for in the same manner as other taxes: *Provided always*, that no retailers of spirituous liquors by the small measure shall be liable to pay in addition to the tax imposed on such retailers, the tax also imposed on stores, unless such retailers shall sell goods, wares or merchandize other than liquors to the amount therein stated: *And provided also*, that the sheriff may be entitled to demand and collect the tax imposed by this section from such persons also as keep stores for a less time than one year and sell thereout the amount herein before specified, although such stores were not open on the first day of April.

13. *And be it further enacted*, That the owners of billiard tables shall hereafter give them in at the same time and in the same manner as other taxable property, and shall pay for each billiard table a tax of fifty dollars to be levied, collected and accounted for in the same manner as other taxes, and the sheriff shall collect the tax on every billiard table within his county, whether the same shall have been there on the first day of April or not, and whether the same shall have been erected on that day or not, unless the person having such table in possession shall produce the receipt of the sheriff of some other county for the said tax.

Tax of fifty dollars on billiard tables.

14. *And be it further enacted*, That each and every company of itinerant stage players, rope dancers, tumblers and wire dancers, and each and every person or company who shall exhibit natural or artificial curiosities of any sort or kind for a reward, shall previously to performing or exhibiting in any county of this state, pay to the sheriff thereof twenty dollars as a tax to the state, to be accounted for by the sheriff as other taxes; and on paying such tax and obtaining a receipt therefor, such person or company shall be authorised and permitted to perform or exhibit as aforesaid in such county, and in no other for the term of one year thereafter. And each and every itinerant stage player, rope dancer, tumbler, or wire dancer or exhibiter of curiosities natural or artificial for a reward, who shall perform or exhibit in any county, without having previously paid the tax herein directed, shall be liable to a forfeiture of sixty dollars, to be collected by the sheriff of said county by distress and sale of any of the property of such de-

On itinerant players, &c.

linquent, and to be applied one half to the use of the state and the other half to the use of the sheriff.

Tax of five dollars on public gates.

15. *And be it further enacted,* That a tax of five dollars be and the same is hereby laid on all gates which may have been or shall hereafter be at any time erected across any public road or highway within this state, and the owners of such gates shall give in the same at the same time that they give in their taxable property; and the tax shall be levied, collected and accounted for in the same manner as other taxes.

Poll tax.

16. *And be it further enacted,* That for the year one thousand eight hundred and fifteen, a tax of thirty cents on each and every free poll, and a tax of thirty cents on each and every black, shall be levied and collected under the same regulations and restrictions as poll taxes have heretofore been collected.

Age of polls, &c.

17. *And be it further enacted,* That all free males between the ages of twenty-one and fifty years, and all slaves between the ages of twelve and fifty shall be subject to a poll tax: *Provided,* that all slaves shall be listed in the county where they reside.

County tax.

18. *And be it further enacted,* That the justices of the several county courts shall at the first county court which shall happen after the first day of January in each and every year hereafter, lay a tax not exceeding five cents on every hundred dollars valuation of lands with their improvements, and a tax on the other objects of taxation herein before enumerated as is already prescribed by law for the purpose of paying the county charges.

Poor tax.

19. *And be it further enacted,* That the wardens of the poor in each and every county within this state shall lay a tax not exceeding five cents on every hundred dollars valuation of lands with their improvements, and also a tax as heretofore established by law on the other subjects of taxation herein before enumerated, for the purpose of defraying the parish charges of said county.

20. *And be it further enacted,* That the sheriffs shall have the same powers and be subject to the same rules, regulations and restrictions in the collection and accounting for the taxes aforesaid as have heretofore governed them in the collection of taxes.

Contingent fund.

21. *And be it further enacted,* That after the payment of the civil list and other specific appropriations by law, the balance of the revenue remaining in the treasury

during the year one thousand eight hundred and fifteen, be and it is hereby declared a contingent fund, to be applied to the incidental charges of government.

CHAP. 873.

An act declaring Quakers competent persons to serve on grand juries, and also on petit juries in criminal cases.

Whereas doubts are entertained whether the people called Quakers are competent to serve on grand juries, and also on petit juries in criminal cases, inasmuch as they are unwilling to be sworn upon the Holy Evangelists of Almighty God; and whereas the sanctions of an oath do not depend upon the forms in which it shall be administered—but upon a belief of the existence of the Supreme Being, and of a future state of rewards and punishments,

Be it enacted, &c. That the people called Quakers shall be competent to serve on grand juries, and also on petit juries in the trial of all criminal cases, and be entitled to be sworn according to the terms of their religion, as heretofore prescribed by law and observed in the trial of civil cases.

Quakers may
serve on grand
juries.

CHAP. 874.

An act to continue in force the third section of an act passed in the year one thousand eight hundred and thirteen, respecting sites for light-houses and fortifications.(a)

(a See 1813, c.
857, s. 3.)

Be it enacted, &c. That the provisions contained in the third section of an act, entitled “An act providing the means by which the United States may obtain sites for light-houses and fortifications within this state, and for ceding the jurisdiction thereof to the United States,” so far as relates to the time of laying off and paying for land for the purposes in the said act expressed, be and the same is hereby declared to be in full force and operation, till the first day of December, one thousand eight hundred and eighteen.

CHAP. 875.

(a See 1812, c. 334, 1816, c. 908.) An act allowing further time for registering grants, proving and registering deeds, mesne conveyances, powers of attorney, bills of sale and deeds of gift. (a)

Time for registering grants extended.

1. *Be it enacted, &c.* That all grants for lands, all deeds or mesne conveyances of lands, tenements and hereditaments, and all powers of attorney, under which any lands, tenements or hereditaments may have been conveyed, not already proven, acknowledged and registered, shall and may, within two years after the passing of this act, be admitted to probate and registration, under the same rules and restrictions as heretofore appointed by law; and said grants, deeds, mesne conveyances and powers of attorney, when so proved and registered, shall be as good and valid as if they had been proved and registered in the time heretofore allowed.

2. *And be it further enacted,* That all bills of sale or other conveyance of slaves, all deeds of gift of any estate of whatever nature, and all marriage contracts, shall and may within two years after the passing of this act, be admitted to registration, under the same rules, regulations and restrictions as heretofore appointed, and shall be as good and valid as if they had been proved in the time heretofore allowed: any law to the contrary notwithstanding.

CHAP. 876.

An act to give to the superior courts of law concurrent jurisdiction of petitions for the amendment of grants from the state and mesne conveyances for land.

Superior courts to hear petitions for amending grants, &c.

Be it enacted, &c. That from and after the passing of this act, the superior court of law in each county shall have, possess, and exercise, as full power and authority to receive, hear and determine petitions for the amendment of grants from the state, and mesne conveyances for land in all cases whatsoever, and to direct the amendment of the same, as the several courts of pleas and quarter sessions now possess, by virtue of the several acts of Assembly in such case made and provided: (b) any law, usage, or custom to the contrary notwithstanding.

(b See 1700, c. 326, 1798, c. 504, 1804, c. 876.)

CHAP. 877.

An act further to prescribe the duties of the comptroller.

1. *Be it enacted, &c.* That it shall be the duty of the comptroller, immediately after the first day of November in every year, to prepare the account of the public treasurer of this state, with the state, as the same shall appear on the books of the comptroller's office for the year preceding the said first day of November, stating the balance of money in the treasury at the last settlement, the receipts into the treasury within the year, particularizing the monies and account from which the same accrued, and were received, the amount received from each respectively, and a particular statement of the disbursements from the treasury within the same period, and the money remaining in the treasury; and shall annex to said account a statement of the revenue from each subject of taxation in every county of the state—of which account and statement, the comptroller shall have printed two hundred and fifty copies, before the meeting of the General Assembly next ensuing the first day of November in every year, and deliver the same within the first week of the session of the General Assembly to the clerk of either house, subject to the disposal of the General Assembly.

Comptroller to have the statement of the Treasury printed.

2. *Be it further enacted,* That for printing the said account and statement, the treasury shall pay a reasonable compensation on the certificate of the comptroller.

CHAP. 878.

An act for the relief of persons who have made entries on vacant and unappropriated lands, and on which warrants of survey have been issued and lost by accident.(a)

(a See 1796, c. 455, s. 3.)

1. *Be it enacted, &c.* That any person who has made, or shall hereafter make an entry or entries of lands within this state as required by law, since the year one thousand eight hundred, and upon which the entry-taker has issued, or shall issue his warrant or warrants of survey, and the same be lost by accident, it shall be lawful, on due proof thereof being made to the satisfaction of the court of pleas and quarter sessions, within the county wherein such entry shall have been made, or

Duplicate warrants to be issued.

shall be made hereafter, to issue an order or other proper process, directing the entry-taker or his successor to issue a duplicate warrant of survey, of the same tenor and date of the one so lost, taking care to set forth in the face of said warrant, that the same is a duplicate, in which case, such warrant shall be as valid, and binding as the original: *Provided*, that seven justices shall be present in court, at the time of making such order: *Provided*, that nothing herein contained shall have the effect of reviving such entries as have reverted, or may hereafter revert to the state, by the purchase money not being paid within the time limited by law: *Provided also*, that no survey to be made under this act or grant to be obtained thereon, shall affect or impair the titles to lands heretofore granted.

Entry-taker's
fee.

2. *Be it further enacted*, That the entry-takers shall be entitled to demand and receive for each duplicate warrant by them issued according to the provisions of this act, the sum of twenty-five cents.

CHAP. 879.

An act to amend an act concerning old titles of land and for limitations of actions, and for avoiding suits in law. (a)

(a See 1715, c.
2.)

Actions must be
brought in three
years.

Be it enacted, &c. That all actions of debt, grounded upon any lending or contract without specialty, which shall be sued or brought, after the ratification of this act, shall be commenced or brought within three years next after the cause of such action or suit and not after: *Provided*, if any person or persons that is, or shall be entitled to such action of debt, shall be at the time of such cause of action given or accrued, fallen or come within the age of twenty-one years, feme covert, non-compos-mentis, imprisoned or beyond the seas, that then such person or persons shall be at liberty to bring the same action, so as they bring the same within such time as is before limited, after their coming to, or being of full age, discoverd, of sound mind, at large, or returned from beyond the seas, as other persons having no such impediment might have done.

CHAP. 880.

An act to appoint commissioners to run the boundary line between this state and South-Carolina.

Whereas the provisional article of agreement (a) entered into between the commissioners of the state of North-Carolina, and the commissioners of the state of South-Carolina, at M'Kinney's, on Toxaway river, on the fourth day of September, in the year one thousand eight hundred and thirteen, hath been ratified by the legislatures of the states of North-Carolina and South-Carolina respectively, and it is necessary that the line established by said provisional article should be run and marked.

(a See 1803, c. 631, 1804, c. 654, 1806, c. 696, 1808, c. 738, 1813, c. 857, 1815, c. 885.)

Be it enacted, &c. That general Thomas Love, general Montfort Stokes and colonel John Patton be, and the same are hereby appointed commissioners on the part of this state, to meet such commissioners as may be appointed by the state of South-Carolina, to run and mark said line, agreeably to said provisional article; and the said commissioners shall have power to employ one or more surveyors and chain-carriers; and the said commissioners, surveyors, and chain-carriers shall receive the same compensation for their services as those who have already been employed in running the boundary line between this state and South-Carolina.

Commissioners appointed to run the line.

CHAP. 881.

An act to authorise the court of pleas and quarter sessions to employ suitable persons to transcribe the register's books of their respective counties, and for other purposes.

1. *Be it enacted, &c.* That the courts of pleas and quarter sessions, shall have power to employ suitable persons to transcribe and index such of the register's books in their respective counties, as from decay or other causes may require to be transcribed or indexed, and the said books when so transcribed and approved of by the said courts respectively, shall be deemed and taken as public records, and copies from said books of deeds and other conveyances, reports of commissioners appointed to make partition of real estates and all other papers required by law to be registered, certified by the registers for the time being, shall be received in

Register's books to be transcribed.

evidence in the same way and under the same rules, regulations and restrictions as copies from the register's books have heretofore been received in evidence.

Clerks required
to deliver
deeds, &c. to
Register.

2. *Be it further enacted*, That each of the clerks of the courts of pleas and quarter sessions, upon application of the register for his county at any time after ten days from the rise of each court, shall deliver to the said register all deeds and other instruments of writing admitted to probate, and then remaining in the office of the said clerk for registration, and shall at the same time pay over to the register the several fees for registering the same; and in case any one of the said clerks shall fail to deliver over such deeds and instruments of writing upon the application of the register as aforesaid, and to pay to the said register his fees as aforesaid, he shall for every such failure, forfeit and pay to the register the sum of fifty pounds, for which sum judgment shall be entered by the succeeding court upon motion on behalf of the register.

3. *Be it further enacted*, That all acts and clauses of acts which come within the purview and meaning of this act be, and the same are hereby repealed and made void.

CHAP. 882.

(a See 1806, c.
693, s. 3.)

An act to alter the time of holding the superior courts of the counties of Wilkes and Ashe.(a)

Time of holding
Wilkes superior
court.

1. *Be it enacted, &c.* That the superior courts of law and equity for the county of Wilkes shall hereafter be held on the second Monday in March and September in each and every year.

And of Ashe su-
perior court.

2. *And be it further enacted*, That the superior courts of law and equity for the county of Ashe, shall hereafter be held on the third Mondays of March and September in each and every year; and the said courts as above altered, shall be held and governed by the same rules, regulations and restrictions as have been heretofore prescribed by law.

Provided nevertheless, That this arrangement shall not take place until the next term succeeding the following spring term—any law, usage or custom to the contrary notwithstanding.

CHAP. 883.

An act to alter the time of holding the superior courts of law and equity, in the counties of Mecklenburg and Cabarrus. (a) (a See 1806, c. 693, s. 3.)

Be it enacted, &c. That the superior courts of law and equity for the county of Mecklenburg, shall hereafter be holden on the sixth Monday after the fourth Monday in March and September, in each and every year respectively; and the superior courts of law and equity for the county of Cabarrus, shall hereafter be holden on the seventh Monday after the fourth Monday of March and September, in each and every year: *Provided*, that nothing herein contained shall alter the time of holding the next superior courts of law and equity in said counties.

Time of holding
Mecklenburg
and Cabarrus
superior courts

CHAP. 884.

An act to establish permanently the dividing line between the counties of Burke and Ashe.

Be it enacted, &c. That the following boundaries, to-wit: beginning at the Yadkin spring, thence along the extreme height of the Blue Ridge, to the head spring of Flat-top fork of Elk Creek, thence down the meanders of said creek to the Tennessee state line, shall be and the same is hereby declared the permanent dividing line between the counties of Burke and Ashe.

Dividing line
between Burke
and Ashe.

Read three times and ratified in General Assembly, }
December 27, A. D. 1814. }

GEO. OUTLAW, S. S.
F. NASH, S. H. C.

A Copy.—WM. HILL, Secretary.

William Miller,
esq. governor.

At a General Assembly, begun and held at Raleigh, on the twentieth day of November, in the year of our Lord one thousand eight hundred and fifteen, and in the fortieth year of the independence of said state.

CHAP. 885.

(a See 1803,
c. 631, 1804,
c. 654, 1806,
c. 696, 1808,
c. 738, 1813,
c. 857, 1814,
c. 880.)

An act to ratify and carry into effect an agreement relative to the boundary line between this state and the state of South-Carolina, entered into by the commissioners of the said states respectively, on the second day of November, A. D. eighteen hundred and fifteen, and to establish and confirm the said boundary line as surveyed, marked and agreed upon by the said commissioners.(a)

Preamble.

Whereas Thomas Love, Montfort Stokes and John Patton, commissioners duly appointed and authorised on the part of the state of North-Carolina : and Joseph Blythe, John Blassengame and George W. Earle, commissioners duly appointed and authorised on the part of the state of South-Carolina, to run and mark the boundary line between the said states agreeably to a provisional article of agreement entered into between the said states by their respective commissioners, at M'Kinney's on Toxaway river, on the fourth day of September, one thousand eight hundred and thirteen, did meet on the eleventh day of September, one thousand eight hundred and fifteen, near the termination of the line of one thousand seven hundred and seventy-two, and proceed to run and mark the said boundary line agreeably to the terms of the said provisional article : And whereas the said commissioners having ascertained by observation and by actual experiments that a course due west from the termination of the line of seventeen hundred and seventy-two would not strike the point of the ridge dividing the waters of the north fork of Pacolet river, from the waters of the north fork of Saluda river, in the manner contemplated by the commissioners who entered into the said provisional article of agreement on behalf of the said states, and finding also that running a line on the top of the said ridge so as to leave all the waters of Saluda river within the state of South-Carolina, would, (in one place) run a little north of a course due west from the termination of the said line of seventeen hundred and seventy-two, and that consequently the said provisional article of agreement could not be strictly and literally carried into effect : and whereas the aforesaid commissioners for the purpose of having a natural boundary as

far as the Cherokee boundary line, run in the year seventeen hundred and ninety-seven, did agree that the boundary line between the said states should be run on the ridge around the head springs of the north fork of Saluda river; and did run and mark the said boundary line in pursuance of such agreement, and have unanimously recommended that the same be established by the legislatures of the respective states as the line intended by the provisional article aforesaid, and as the permanent line of separation and limits between the said states.

1. *Be it therefore enacted, &c.* That the boundary line so run and marked by the commissioners aforesaid and described in their joint report and chart of survey submitted to the legislatures of their respective states, that is to say; beginning at a stone set up at the termination of the line of seventeen hundred and seventy-two and marked "N. C. and S. C. September fifteenth, one thousand eight hundred and fifteen," running thence west four miles and ninety poles to a stone marked N. C. and S. C. thence south twenty-five degrees, west one hundred and eighteen poles to the top of the ridge dividing the waters of the north fork of Pacolet river from the waters of the north fork of the Saluda river, thence along the various courses of the said ridge (agreeably to the plat and survey signed by the commissioners and surveyors of both states) to the ridge that divides the Saluda waters from those of Green river, thence along the various courses of the said ridge agreeably to the said plat and survey to a stone set up where the said ridge joins the main ridge which divides the eastern from the western waters and which stone is marked N. C. and S. C. September twenty-eighth, one thousand eight hundred and fifteen, thence along the various courses of the said ridge agreeably to the said plat and survey to a stone set up on that part of it which is intersected by the Cherokee boundary line run in the year one thousand seven hundred and ninety-seven, and which stone is marked N. C. and S. C. one thousand eight hundred and thirteen: and from the said last mentioned stone on the top of the said ridge at the point of intersection aforesaid a direct line south sixty-eight and one fourth degrees west, twenty miles and eleven poles to the thirty-fifth degree of north latitude at the rock in the east bank of the Chatooga river, marked lat. thirty-

Establishing the boundary line between this state and South-Carolina.

five, A. D. one thousand eight hundred and thirteen, its all a distance of seventy-four miles and one hundred and eighty-nine poles, be, and the same is hereby established as the boundary line between this state and the state of South-Carolina, from the termination of the said line of one thousand seven hundred and seventy-two to the rock in the east bank of the Chatooga river marked lat. thirty-five, A. D. one thousand eight hundred and thirteen, and that the agreement entered into by the commissioners aforesaid respecting the said boundary line, be and the same is hereby ratified and confirmed.

Secretary of
state required
to record the
agreements.

2. *And be it further enacted*, That the joint report of the said commissioners submitted to this legislature, and all other conventions and agreements entered into between the said states respecting the boundary line between the said states, and the reports of the several commissioners heretofore appointed on behalf of this state to conclude such conventions and agreements, shall be recorded by the secretary of state in a well bound book, in the order in which such conventions, agreements and reports have been severally made, and that the secretary of state be allowed for this service such sum as his excellency the governor shall deem the same to be reasonably worth, to be paid by the treasurer upon a warrant from the governor.

CHAP. 886.

An act providing for the appointment of electors to vote for a president and vice-president of the United States.

State divided in-
to 15 districts.

1. *Be it enacted, &c.* That this state shall be divided into fifteen districts for the purpose of choosing electors for a president and vice-president of the United States, in the following manner, to-wit: the counties of Burke, Buncombe, Rutherford and Haywood, shall compose one district. The counties of Wilkes, Iredell, Surry and Ashe, shall compose one district. The counties of Mecklenburg, Cabarrus and Lincoln, shall compose one district. The counties of Rowan and Montgomery, shall compose one district. The counties of Rockingham, Stokes and Caswell, shall compose one district. The counties of Randolph, Guilford and Chatham, shall compose one district. The counties of Richmond, Anson, Robeson, Moore and Cumberland, shall compose

one district. The counties of Person, Orange and Granville, shall compose one district. The counties of Wake, Johnston and Wayne, shall compose one district. The counties of Warren, Franklin, Halifax and Nash, shall compose one district. The counties of Bertie, Northampton, Hertford and Martin, shall compose one district. The counties of Pasquotank, Gates, Chowan, Perquimons, Camden and Currituck, shall compose one district. The counties of Beaufort, Edgecombe, Pitt, Washington, Tyrrel and Hyde, shall compose one district. The counties of Craven, Greene, Lenoir, Jones, Carteret and Onslow, shall compose one district. The counties of Bladen, Sampson, Columbus, Duplin, New-Hanover and Brunswick, shall compose one district. Which said districts shall be denominated electoral districts, that the persons qualified to vote for members of the House of Commons of the General Assembly of this state in the said counties respectively, shall meet on the second Thursday of November, one thousand eight hundred and sixteen, at the place or places by law established in their several counties for the election of members of the General Assembly, and there give their votes by ballot for fifteen discreet persons, being freeholders, one of whom shall actually reside within each of the electoral districts as herein before laid off, that the polls shall be held in the same manner, and by the same officers, and under the same rules and regulations as the poll for election for members of the General Assembly. And in case any ticket should contain two or more names of persons residing in the same electoral district, that one of such persons only, whose name shall be first on said ticket, shall be taken and held as the person duly voted for. And in like manner if two or more of the persons shall be of the fifteen first upon the poll who shall reside in the same district, he who shall have the greatest number of votes shall be taken and held duly elected, and the sheriffs of the several counties, or other officers duly authorised, who shall have held the said polls, shall within two days after the day of holding the said polls, ascertain by faithful addition and comparison of the number of votes given for every person who shall have been voted for as an elector, and shall certify in words, and not in figures, under their hands in manner and form following, to wit: I A. B. sheriff of _____ county, (or deputy sheriff, or other officer duly

Time of holding
elections.

Certificate and
return.

By whom to be
made.

Penalty of two
hundred pounds
in case of failure

authorised as the case may be,) do hereby certify that an election was held on the day (or days, as the case may be) and at the place (or places as the case may be) fixed by law within the said county for this purpose, and that the number of votes herein specified opposite the names of the several persons following, was given by voters qualified to vote for this purpose, for such persons as electors for the state of North-Carolina of president and vice-president of the United States, namely: For D. C. (here state the number of votes given for D. C.) For E. F. (here state the number of votes given for E. F.) and so on until the list of such persons so voted for, and of the number of votes shall be complete; given under my (or our) hand (or hands as the case may be,) this day of in the year of our Lord eighteen hundred and two fair copies of such certificate and return shall be made by the sheriff, deputy sheriff or other officer, (as the case may be,) under his or their hands, one of which shall be delivered to some one person among the fifteen who shall have therein the greatest number of votes given at the election poll so held by the sheriff or other officer so certifying, as the case may be, and the other shall be to the governor of this state, within eight days after the day of holding the said polls, under the penalty of two hundred pounds, upon such sheriff, his deputy or other officer holding such election, in the case of his or their failure in so doing, to be recovered by the attorney-general or a solicitor to the use of the state, by an action of debt in any court of record within this state in the name of the governor: and the governor shall upon the receipt of such certificates, or so many thereof as shall have been transmitted to and received by him, on or before the Monday before the first Wednesday of December next following the day of holding said polls, proceed to ascertain from the said returns the fifteen persons for whom the greatest number of the whole number of votes throughout the state shall have been given, and he shall, on or before the first Wednesday in December next following the day of holding the said polls, make out three lists of the names of the fifteen persons for whom the greatest number of votes shall appear to have been given as aforesaid, and deliver or cause the same to be delivered to the said fifteen persons so having the greatest number of votes directed by the

act of Congress, and the governor shall lay before the General Assembly for their inspection, the said certificates so by him received from the several sheriffs as aforesaid.

2. *And be it further enacted*, That four years after the election above described, and every four years thereafter, there shall be in the several counties of this state, another election of electors to vote for president and vice-president of the United States, to be held on such days and at such places as are herein before prescribed, and all such acts, matters and things as are herein directed to be done and observed at and after the election herein directed by the governor of this state, and by the sheriffs of the several counties or deputy sheriffs or other officers, shall be done and observed at every subsequent election by the governor for the time being, and by the then sheriffs of the several counties, deputy sheriffs or other officers respectively, under the rules, regulations and penalties herein prescribed and directed.

For every four years there shall be an election for president & vice-president of the U. States.

3. *And be it further enacted*, That the fifteen persons for whom the greatest number of votes throughout the state shall appear to have been given as aforesaid, shall be and they are hereby declared to be the electors for and on behalf of this state, to vote for president and vice-president of the United States, and shall assemble in the city of Raleigh, on the first Wednesday of December, one thousand eight hundred and sixteen, and on the first Wednesday of December next after their appointment in each and every year in which they shall be appointed, and then and there give their votes for president and vice-president of the United States.

Electors to assemble in the city of Raleigh.

4. *And be it further enacted*, That whenever the offices of president and vice-president of the United States shall both become vacant, it is hereby declared to be the duty of the governor of this state for the time being, upon receiving a notification of such vacancy from the secretary of state of the United States, forthwith to issue his proclamation directing the sheriffs of the several counties of this state or other officers to hold elections within their respective counties for the appointment of electors of president and vice-president of the United States, on the days of the year in which such vacancy may happen, as are herein prescribed for holding the regular and stated elections, *Provided* there shall be a

The governor shall issue a proclamation.

space of two months between the date of such notification and the said first Wednesday next following the date of such notification : but if there should not be the space of two months between the date of said notification and the said first Wednesday of December, the governor shall specify in his proclamation that the electors shall be appointed or chosen in the year next ensuing the date of such notification, on the days herein before stated, and it is also hereby declared that the electors appointed in the manner by this section directed, shall meet at the city of Raleigh, on the first Wednesday of December after their appointment, and give their votes for a president and vice-president of the United States.

Electors, failing to attend, to forfeit 200 pounds.

5. *And be it further enacted*, That each elector chosen pursuant to this act, with his own consent previously signified, failing to attend and vote for a president and vice-president of the United States at the time and place herein directed, shall (except in consequence of sickness or other unavoidable accident) forfeit and pay two hundred pounds, to be recovered by the attorney-general or a solicitor, to the use of the state by action of debt, in the name of the governor for the time being, in any court of record : and any sheriff or other officer duly authorised for that purpose, refusing to take the poll when he shall be thereunto required by a person qualified to vote, or making, or signifying, or delivering, or transmitting a false certificate or return of an election, as herein directed, or making any erasure or alteration in the poll books, or refusing to suffer any candidate or person qualified to vote, at his or their own expense to have a copy of the poll books, shall forfeit and pay one hundred pounds, which may be recovered with costs of suit in any court of record, by any person who will sue for the same in an action of debt, one half to the use of the person first suing therefor and the other half to the use of the state.

To be allowed the pay of members of Assembly.

6. *And be it further enacted*, That the electors appointed in pursuance of this act, shall be allowed for their travelling to and from the city of Raleigh and their attendance, the same compensation as by law is or may be allowed members of the General Assembly, and shall be entitled to the same privileges as members of the General Assembly : and the same allowances shall be made to the sheriffs or other officers holding said elec-

tions, for holding the same and conveying the duplicate certificate to the governor as is or may be allowed to him or them in the case of an election for members of congress.

7. *And be it further enacted*, That in case any of the electors chosen as by this act directed, should by sickness or any other cause not attend and give their votes as herein prescribed, the other electors then present shall and may by vote appoint some other person or persons (as the case may be) to supply the place or places of the person or persons so not attending as aforesaid; and the person or persons so appointed by the electors shall be taken and held to all intents and purposes as an elector or as electors to vote for president and vice-president of the United States, and as such shall give his vote or their votes in the same manner as the other electors chosen in the manner herein before prescribed.

Electors may
appoint electors

8. *And be it further enacted*, That all laws coming within the purview and meaning of this act be repealed and they are hereby repealed and made void.

CHAP. 887.

An act to amend an act passed in the year one thousand eight hundred and eight, chapter seven hundred and fifty-two, respecting the duties of sheriffs. (a)

(a Sec 1808, c.
752 and 753.)

Whereas many inconveniences arise to the citizens of this state having debts due to them, by the fraudulent conduct of sheriffs and other officers, which under the existing law cannot be detected; for remedy whereof,

1. *Be it enacted*, &c. That whenever any sheriff, constable, or other officer within this state shall return upon any writ of fieri facias or venditioni exponas to him directed, that he has made no sale for want of bidders, he shall state in his return the several places at which he hath advertised the sale of property on which he hath levied, and the places at which he hath offered the same for sale, and every sheriff or coroner failing to make such specification, shall for every omission be subject to a fine of twenty pounds, and every constable for a like omission of duty shall be subject to a fine of five pounds for the use and benefit of the plaintiff in the execution on which such failure shall be made, and further be liable to an indictment for a misdemeanor in office. *Provided always*, that nothing con-

Officers duty in
returning "no
sale for want of
bidders."

Fine of twenty
pounds on sher-
riff and coroner
for neglect.

And 5 pounds
on constable.

tained in this act, or any recovery under the same shall be a bar to any action for a false return against the sheriff, constable or other officer violating the same.

Operation of the
act suspended.

2. *And be it further enacted,* That the above recited act shall be suspended in its operation until the first day of June next.

CHAP. 388.

An act making it the duty of sheriffs to serve notices of taking depositions.

1. *Be it enacted, &c.* That the sheriff of every county in this state by himself or his lawful deputy, shall serve all notices of taking depositions in any suit depending in any of the courts of law and equity of this state, which may be delivered the said sheriff or deputy by either of the parties in said suit, their agents or attorneys, by delivering a copy thereof to the person to whom the same shall be directed, if to be found in his county, or by leaving a copy thereof at the usual place of abode of such person if in his county: and shall certify thereon the time when said notice was served or copy left at the place of abode, and such return shall be evidence of the service of the said notice as may be therein stated. And the said sheriff or his deputy shall deliver the said notice with his return thereon to the party at whose instance the said notice issued, his attorney or agent, upon their demand of the same.

Manner of serving
notices.

Penalty on sheriff
for neglect.

2. *And be it further enacted,* That the sheriff neglecting to execute and return such notice or making a false return thereon, shall be subject to the same action and penalties as for neglecting to serve process directed to him from the superior courts of law of this state, to be prosecuted, recovered and applied as actions and penalties are directed to be prosecuted, recovered and applied for neglecting to serve, or falsely returning process issued from the superior courts of this state.

Sheriff's fee.

3. *And be it further enacted,* That for executing every such notice the sheriff shall be entitled to the same fees which is allowed by law for serving subpoenas for witnesses.

Proviso for notice
as formerly.

4. *And be it further enacted,* That nothing herein contained shall prevent any party in any suit in law or equity from giving notice and proving the same as heretofore practised.

CHAP. 889.

An act for the relief of persons who have made entries of land with entry takers who have not renewed their bonds agreeable to law.

Be it enacted, &c. That all entries of land regularly made in the books of any entry-taker within this state, who has not renewed his bond agreeable to law, shall be as good and available in law and equity as if the entry-taker with whom the said entries were made had renewed his bond for the faithful performance of his duty as entry-taker agreeable to law, any law to the contrary notwithstanding: *Provided*, that this act shall not be so construed as to make good any entry made with any entry-taker so failing after the county court shall have appointed a successor in consequence of such failure.

Entries of land good, though the entry-taker has not given bond.

Proviso.

CHAP. 890.

An act to increase the salary of the public printer.

Be it enacted, &c. That the public printer shall hereafter receive a salary of one hundred dollars per annum in addition to the salary now allowed by law. (a)

Salary increased \$100.

(a See 1785, c. 243, 1798, c. 511, 1810, c. 795, s. 3.)

CHAP. 891.

An act to authorise the county courts of this state, when they may deem it necessary, to lay a tax for the paying of jurors of the superior and county courts.

1. *Be it enacted, &c.* That the several county courts within this state shall have full power and authority to lay a tax for the purpose of paying their jurors, a sum adequate to their services, which shall not exceed one dollar and fifty cents, nor be less than fifty cents per day; and a sum equal to the daily allowance for every thirty miles travelling to and from said courts: *Provided nevertheless*, that a majority of the justices of said county be present when the said tax shall be laid, and that said tax shall not exceed ten cents on each poll and the like sum on every three hundred dollars value of town property and of land, for the purpose above mentioned, which taxes shall be collected and accounted for

County court may lay a tax for paying their jurors, &c.

Proviso.

as other county taxes are now or may hereafter be accounted for.

2. *And be it further enacted*, That all laws and clauses of laws, coming within the meaning and purview of this act are hereby repealed and made void.

CHAP. 892.

(a See 1777, c. 119, 1816, c. 909.)

Persons taking up stray horses shall pay to rangers \$1 to have the same advertised.

An act making further provision in favour of the owners of strays. (a)

Be it enacted, &c. That every person who shall hereafter take up any horse, mare, gelding, colt or mule, as a stray, shall at the time he gives notice to the ranger agreeably to the provisions of existing laws, pay to the ranger in addition to the fees already required to be paid, the sum of one dollar for the purpose of having such stray advertised as herein after directed: and it shall be the duty of the ranger immediately after he shall be furnished with the appraisement of the persons appointed to value the stray, to cause an advertisement to be published for at least two weeks in the paper printed by the printer for the state, containing an accurate description of the stray as entered upon his book, the value at which the same shall have been appraised, and the name and place of the abode of the taker-up, which sum of one dollar the owner shall repay to the taker-up at the time of receiving his stray. *Provided always*, that if the owner of any stray horse, mare, gelding, colt or mule taken up as aforesaid, shall not prove his property within twelve months, the taker-up shall be allowed one dollar in his settlement with the county trustee over and above the fee allowed by law for taking up strays, any law to the contrary notwithstanding.

Or it shall be allowed by the county trustee.

CHAP. 893.

An act making further regulations for preserving the health of the seaport towns in this state.

Whereas, it is found necessary in all seaport towns to establish such laws and regulations as may tend to preserve the health of the inhabitants and to prevent

the origin, introduction and spreading of pestilential and other infectious diseases.

1. *Be it enacted, &c.* That all ponds of stagnant water, all cellars and foundations of houses, whose bottoms contain stagnant and putrid water, all dead putrid animals lying about the docks, streets, lanes, alleys, vacant lots or yards, all privies that have no wells sunk under them, all slaughter houses, all docks whose bottoms are alternately wet and dry, by the ebbing and flowing of the tide, all accumulation of filth in the streets, lanes, alleys and gutters thereof, all accumulations of vegetable and animal substances undergoing a putractive fermentation in any of the seaport towns of this state, are hereby declared common nuisances, productive of offensive vapours and noxious exhalations, the causes of disease, and ought to be restrained, regulated and removed.

All stagnant water, putrid substances, &c. in streets, docks, &c. are common nuisances.

2. *Be it enacted,* That every person possessed of a lot or lots, which from their low or sunken situation are liable to retain tide or rain water, or on which cellars or foundations for buildings may be dug, and whether a tenement be erected over the same or not, shall, during the months of June, July, August, September and October, preserve and keep the said lots, cellars and foundations, dry and free from stagnant or putrid waters and other filth; any person offending herein shall forfeit and pay five dollars for the use of the town, to be recovered in the name of the commissioners thereof for every week he, she or they shall suffer such stagnant or putrid water or other filth to remain thereon: and if the said owner or owners shall, notwithstanding the above provision, neglect to remove such stagnant or putrid water or other filth, the commissioners of the town may employ such person or persons as they may think proper, and upon such terms as to them may seem reasonable and just, to remove from the said lot or lots, cellar or foundation the said filth or stagnant or putrid waters, which said expense shall be considered as a further fine for not complying with the provisions of this section, and shall be collected accordingly; and the said expenses shall also be a lien upon the lot or lots upon which the same has been expended.

Proprietors of lots, in certain months to keep them dry, &c.

Penalties for neglect.

CHAP. 894.

An act to declare the jurisdiction of the courts of law of this state in relation to certain matters therein mentioned.

The state courts to take cognizance of suits for penalties incurred under certain acts of congress.

1. *Be it enacted, &c.* That whenever any penalty or forfeiture created by any act of the Congress of the United States, hath been or shall hereafter be incurred by any person within this state, and by such act of Congress, cognizance of such penalty or forfeiture hath been or shall be given to the courts of record of the several states, then and in every such case the courts of law of this state are hereby declared to have and shall hereafter have jurisdiction of the same, and full power and authority to try and give judgment in all proper actions for the same, in the same manner as if such penalty or forfeiture had been created by an act of the General Assembly of this state.

2. *And be it further enacted,* That this act shall be in full force and virtue after the passage thereof.

CHAP. 895.

An act authorising the judges of the superior courts of law to grant new trials in criminal cases.

Judges of superior courts may grant new trials, in criminal cases.

Be it enacted, &c. That the judges of the superior courts of law are hereby empowered and authorised upon application of the defendant to grant new trials in criminal cases, where the defendant or defendants are found guilty, in the same manner, and under the same rules, regulations and restrictions, as in civil cases. Any law, usage or custom to the contrary notwithstanding.

CHAP. 896.

An act to improve the inland navigation of this state, so far as respects the river Roanoke and its waters.(a)

(a See 1812, c. 848.)

1. *Be it enacted, &c.* That for the purpose of improving the navigation of the Roanoke river, and its waters in this state; the stockholders in the Roanoke Navigation Company, incorporated by an act of the General Assembly, passed in the year of our Lord, one thousand

eight hundred and twelve, entitled "an act for improving the navigation of Roanoke river from the town of Halifax to the place where the Virginia line intersects the same," shall make known to the governor of the state their acceptance or rejection of this amended charter, on or before the first day of March next, and if they fail to make known their acceptance or rejection on or before the said day, it shall be held, deemed and taken to all intents and purposes, that the said stockholders do accept this amended charter, and that all their rights, privileges and franchises under the before recited act, shall thenceforward cease and determine, except as the same are granted and secured to them by this act. And in case of their acceptance either actually or impliedly as aforesaid, it shall and may be lawful to open books of subscription at Edenton, under the direction of Joseph B. Skinner, Josiah Collins, jun. and James Iredell, or any two of them : at Windsor, under the direction of David Stone, Joseph H. Bryan and Joseph Bioant, or any two of them : at Plymouth, under the direction of Reuben Carnall, Ezekiel Potter and Asa Hardison, or any two of them : at Halifax, under the direction of Robert Johnson, Andrew Joyner and Thomas Burgess, or any two of them : at Warrenton, under the direction of Peter R. Davis, Kemp Plummer and Robert H. Jones, or any two of them : at Oxford, under the direction of Thomas B. Littlejohn, William M. Sneed and William V. Taylor, or any two of them : at Person court-house, under the direction of William Jeffreys, James Williamson and William M'Kissick, or any two of them : at Caswell court-house, under the direction of Solomon Graves, Barzilla Graves and Griffin Gunn, or any two of them : at Milton, in Caswell county, under the direction of Thomas Boling, Warner Williams and Samuel Smith, or any two of them : at Wentworth, in Rockingham county, under the direction of Robert Gallaway, James Campbell and Samuel Hill, or any two of them : at Germanton, in Stokes county, under the direction of Thomas T. Armstrong, Jeremiah Gibson and Charles F. Bagge, or any two of them : at Louisburg, under the direction of Green Hill, Jordan Hill and Robert A. Taylor, or any two of them : at Raleigh, under the direction of William Boylan, Joseph Gales and Henry Seawell : and at Elizabeth City, under the direction of Charles Grice, Anthony Butler and

Navigation company to notify the governor of their acceptance &c. of amended charter.

Subscription
books opened
on 1st March.

William T. Muse, or any two of them, for receiving subscriptions to the amount of three hundred thousand dollars for the said undertaking, which subscription shall be made personally or by power of attorney, and shall be in dollars : and the said books shall be opened on the first day of March next, and be kept open until the first day of June next inclusive, and on the fourth Monday of the said month of June there shall be a general meeting of the subscribers at the town of Halifax aforesaid : and the managers aforesaid, or any three of them, shall give notice of such meeting in one newspaper published in the town of Petersburg, in the state of Virginia ; and in one or more of the newspapers published in the city of Raleigh, in this state, one month at least before the day for that purpose appointed, and such meeting shall and may be continued from day to day, until the business is finished : and the acting managers shall then and there lay before said meeting the books by them kept containing a state of said subscriptions ; and if the capital sum aforesaid shall not have been subscribed, then the managers at Halifax aforesaid may continue during the said meeting to receive subscriptions to make up the said deficiency, and at such times and places, and on such conditions and terms as that or any other general meeting of stockholders shall direct, books may be opened for making up any deficiency that may still remain. The president and directors shall immediately after the said first meeting, and afterwards from time to time as often as owing to new subscriptions the same shall become necessary, make a list of the subscribers with the sums subscribed by each person, and return the same under their hands, or under the hands of any three of them, to the secretary of state to be by him recorded—and the capital sum aforesaid shall be divided into three thousand shares of one hundred dollars each ; and any person may subscribe for one or more whole shares, but not for part of a share : the treasurer shall subscribe on behalf of the state on the books which shall be opened in the city of Raleigh, two hundred and fifty shares : and if more than three hundred thousand dollars shall be subscribed before the said first general meeting of the subscribers, the same shall be reduced to that sum by the managers, or a majority of them, by first striking off from the subscription on behalf of the state until the same is reduced to the capital aforesaid of three

The treasurer
shall subscribe
for the state 250
shares.

hundred thousand dollars, and if a greater sum remain than three hundred thousand dollars after the whole subscription on behalf of the state shall be stricken off, then the same shall be reduced by striking off a share from the largest subscriptions in the first instance, and continuing to strike off one share from all subscriptions under the largest and above one share, until the same is reduced to the capital aforesaid of three hundred thousand dollars. or until one share is taken from all subscriptions above one share, and lots shall be drawn between subscribers of equal sums to determine the numbers in which such subscribers shall stand on a list to be made for striking off as aforesaid; and if the sum subscribed still exceeds the capital aforesaid, then they shall strike off by the same rule until the sum subscribed is reduced to the capital aforesaid, or until all the subscribers shall be reduced to one share; and if there still be an excess, then lots shall be drawn to determine the subscribers who are to be excluded to reduce the subscription to the capital aforesaid: *Provided*, that unless fifteen hundred shares shall be subscribed before or at the meeting of the subscribers at Halifax aforesaid on the fourth Monday of June next, all the subscriptions made under this section of this act shall be void.

2. *And be it further enacted*, That in case one thousand five hundred shares or more of said capital shall be subscribed as aforesaid, the subscribers, their heirs and assigns, from the time of the said first meeting, shall be and they are hereby declared to be incorporated into a company by and under the name of "the Roanoke Navigation Company:" and as such may sue and be sued, plead and be impleaded, defend and be defended, have perpetual succession and a common seal: and such of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a President and seven directors for conducting the said undertaking and managing all the said company's business and concerns for and during such time, not exceeding one year, as the said subscribers, or a majority of them, shall think fit, and in counting the votes at all general meetings of the said company, each member shall be allowed one vote for every share as far as ten shares, and one vote for every five shares above ten by him or her held at the time in the said company; and any proprietor, by writing under his or her hand

Style of corporation, &c.

executed before a subscribing witness, and acknowledged or proved before a justice of the peace, may depute any member to act as proxy for him or her at any general meeting or meetings, and the presence and acts of such proxy shall be as effectual to all intents and purposes as the presence or acts of his or her principal could or might be.

President, &c.
assembled, may
employ persons,
&c.

3. *Be it further enacted*, That the president and directors and their successors or a majority of them assembled, shall have power and authority to agree with any person or persons on behalf of the company to open and improve the navigation of Roanoke river from its source to its mouth, so far as the same lies within this state: and also to open and improve the navigation of all streams in this state running into the said river, and to make such improvements by canals, locks or sluices, from place to place and from time to time, upon such terms as they shall think fit: and out of the said capital and money arising from tolls, pay for making and repairing all works necessary for the said navigation, and also to appoint a treasurer not one of their own body, but yet a proprietor, clerk, toll gatherers and such officers, managers and servants as they shall think requisite, and also to agree for their wages, settle and pass their accounts, and at their pleasure remove all or any of them and appoint others in their place, and also to establish rules of proceeding, and generally to transact all the business of the company in the intervals between the meetings of the same; and any general meeting of the proprietors may allow the president and directors such sum of money as the said general meeting may judge a reasonable compensation for their trouble. *Provided always*, that the treasurer shall give bond and security as the president and directors or a majority of them shall direct, for the true and faithful discharge of the trust reposed in him: and that the allowance to be made to him shall not exceed three dollars in the hundred for the disbursements by him made, and that no officer of the said company shall have a vote in the settlement or passing his own accounts.

Certain sections
of the act of
1812 revived.

4. *Be it further enacted*, That the fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, seventeenth, eighteenth, and nineteenth sections of an act passed in the year one thousand eight hundred and twelve, entitled "an act for

improving the navigation of Roanoke river from the town of Halifax to the place where the Virginia line intersects the same," shall be and the same are hereby declared to be revived and re-enacted for the benefit of said company and shall constitute and form part of their charter.

5. *Be it further enacted*, That payments for shares subscribed for in behalf of the state shall be made by the treasurer of the state : and the state shall stand upon the same footing with other subscribers as to the payments to be made for shares. But no payment shall be made by the state until the end of thirty days after the first general meeting of stockholders at Halifax as aforesaid.

State subscriptions, how paid.

6. *Be it further enacted*, That the treasurer of this state shall represent and vote on behalf of the state, in all general meetings of the stockholders : and in case of sickness or other cause which may prevent his personal attendance, he may appoint a proxy as in the case of individual subscribers.

Treasurer to vote for the state, &c.

7. *Be it further enacted*, That the president and directors of the said company be and they are hereby authorised to make or construct a turnpike road around the falls of the Roanoke river near the town of Halifax, if they shall deem the same to be advisable, until the navigation of the said river can be improved at the said falls by means of canals, locks and sluices, and to ask and receive the same tolls for commodities transported around the said falls along the said turnpike road as they would be entitled to, were the navigation improved for the transportation thereof in boats, and they are hereby authorised whenever the same shall be deemed advisable by a majority of the stockholders, out of the tolls which shall be received to construct one or more toll bridges across the river Roanoke, or any of the streams which run into the said river.

President and directors may construct a turnpike road around the falls, &c.

8. *Be it further enacted*, That the rates of toll prescribed by the eighth section of the act aforesaid, passed in the year one thousand eight hundred and twelve, may be altered from time to time by the stockholders or a majority of them in a general meeting, and other tolls established at different places on the Roanoke river and the waters thereof, so that the profits arising from the whole of the said tolls shall not in any one year exceed fifteen per centum upon the capital stock aforesaid after

Tolls, as by s. 8 of c. 848, may be altered.

payment of the sums allowed annually to the officers of the said company, expenses incurred for repairs and other incidental charges.

Treasurer authorised to obtain loans of the banks, &c.

9. *And be it further enacted*, That for the purpose of enabling the treasurer of this state to advance from time to time such sums of money as shall be required under this act, he is hereby authorised and directed to make a loan or loans on behalf of the state from the banks of Newbern and Cape-Fear, for the sum of twenty-five thousand dollars, upon the terms mentioned in the amended charter granted to the said banks at the last session of the General Assembly.

Banks, &c. authorised to subscribe.

10. *And be it further enacted*, That the several banks in this state, and all other bodies politic and corporate, shall be and they are hereby authorised to subscribe for shares in the said company, and to hold and enjoy the same in the same way with other subscribers.

Present stockholders to be compensated for surveys, &c. already made.

11. *Be it further enacted*, That the stockholders or a majority of them in a general meeting, shall have power to make compensation to the present stockholders who subscribed for shares under the charter granted by the act passed in the year one thousand eight hundred and twelve as aforesaid, for surveys which they have procured to be made, and for such charts of those surveys as may be in their possession.

CHAP. 897.

(a See 1796, c. 463, 1797, c. 491.)

An act concerning the navigation of Cape-Fear river.(a)

Rights and privileges the same as those of the Roanoke navigation company

1. *Be it enacted, &c.* That all the rights, privileges and franchises granted to the Roanoke navigation company, by the fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, seventeenth, eighteenth and nineteenth sections of an act passed in the year one thousand eight hundred and twelve, entitled "an act for improving the navigation of Roanoke river, from the town of Halifax to the place where the Virginia line intersects the same," be and they are hereby granted to the Deep and Haw river navigation company, and the said sections shall constitute and form part of the charter of the said company, as applied to the Cape-Fear river, and the streams which run into the same, except as hereinafter excepted.

2. *Be it further enacted*, That the rights, privileges and franchises of the Deep and Haw river navigation company shall extend from the sources of the several rivers and creeks running into the Cape-Fear river, to the mouth of the said river ; and the president and directors of the said company shall have power, and they are hereby authorised to engage persons to improve the navigation of the Cape-Fear and its waters as aforesaid, by canals, locks and sluices, or otherwise as may be deemed most expedient.

To extend from the sources to the mouth of the river.

Power of the board to improve the navigation.

3. *Be it further enacted*, That the general meeting of the stockholders in the said company shall hereafter be held in the town of Fayetteville ; and books shall be opened on the first Monday of April next for receiving subscriptions for an increase of the capital stock of the said company for a sum not exceeding one hundred thousand dollars, of which sum the stock already subscribed shall constitute and form a part ; and this capital sum not exceeding one hundred thousand dollars, shall be divided into shares of one hundred dollars each, and the present stockholders in the said company shall deliver to the president and directors the certificates of stock which they now hold, on or before the first Monday of June next, and receive other certificates in lieu thereof, and as to the present stockholders new certificates may be issued for part of a share, but no subscription shall hereafter be received for part of a share.

General meetings to be held in Fayetteville.

Books to be opened for an increase of stock, &c.

4. *Be it further enacted*, That books for receiving the said subscriptions shall be opened under the directions of such persons as the president and directors of the company shall designate and appoint for that purpose ; and shall remain open until the first Monday of June next inclusive, and that on or before the first Monday of July then next following, the said books shall be returned to John Eccles and John Winslow in the town of Fayetteville, and the said John Eccles and John Winslow, with the president and directors aforesaid, or a majority of them, shall then and there proceed to ascertain the number of shares subscribed ; and if the amount of the shares subscribed when added to the amount of the shares now holden by the stockholders in the said company, shall exceed the sum for which the said books shall be opened, they shall proceed to strike off from the said subscriptions, until the same with the amount of stock now holden shall be reduced to the capital sum afore-

Regulations for opening the books and taking subscriptions, &c.

said, and in striking off from the said subscriptions they shall proceed in the manner prescribed in the first section of the act aforesaid, passed in the year one thousand eight hundred and twelve, entitled "an act for improving the navigation of Roanoke river from the town of Halifax to the place where the Virginia line intersects the same."

This act to have no effect unless \$50,000 be subscribed, &c.

5. *Be it further enacted*, That if the sum of fifty thousand dollars shall be subscribed in addition to the present stock of the said company by the first Monday of June next inclusive, this act shall have effect and not otherwise.

Books deemed evidence of sales of shares.

6. And whereas many shares have been sold under direction of the president and directors of the company for balances due thereon, and have been purchased in for the benefit of the company: *Be it further enacted*, That the books of the company shall be deemed good evidence of such sales and purchase, and also good evidence of such other sales and purchases as shall hereafter be made of shares for any balance or balances due thereon.

Tolls may be altered, &c.

7. And whereas by improving the navigation of the Cape-Fear river, and the various streams which run into the said river, the said company will become entitled to tolls at different places, but of unequal amount: *Be it enacted*, that the stockholders, or a majority of them in a general meeting, shall have power to regulate and determine the tolls which shall be paid; and from time to time alter the said tolls, *Provided*, that the said tolls shall be so fixed, that the profits arising therefrom, shall not in any one year exceed fifteen per cent. upon the capital stock aforesaid, after payment of the sums allowed annually to the officers of the said company, expenses incurred for repairs and other incidental charges.

Treasurer authorised to borrow of the banks.

8. And to enable the treasurer of this state to advance from time to time such sums of money as shall be required under this act, *Be it further enacted*, that the treasurer be and he is hereby authorised and directed to make a loan or loans on behalf of the state from the banks of Newbern and Cape-Fear, for the sum of fifteen thousand dollars, upon the terms mentioned in the amended charter granted to the said banks at the last session of the General Assembly, and the said banks are hereby authorised to make such loan or loans.

9. *And be it further enacted,* That the several banks in this state, and all other bodies politic and corporate, shall be and they are hereby authorised to subscribe for shares in the said company, and to hold and enjoy the same in the same way as other subscribers.

Banks, &c. authorised to subscribe.

10. *Be it further enacted,* That the capital sum aforesaid may be enlarged from time to time at the discretion of the stockholders, or a majority of them in a general meeting, should the said capital sum be insufficient to complete the navigation contemplated by the company under this act, and the president and directors of the said company, whenever a majority of the stockholders in general meeting shall deem the same to be advisable, shall be and they are hereby authorised, out of the capital stock aforesaid, or the tolls which shall be received, to construct one or more toll-bridges across the Cape-Fear river, or any of the streams which run into the said river, and for the condemnation of lands necessary for the erection of the abutments of said bridges, and the erection of toll-houses, the same proceedings shall be had as are prescribed for the condemnation of lands for canals in the act aforesaid, passed in the year one thousand eight hundred and twelve.

Capital may be enlarged.

Toll bridges may be built, &c.

11. *Be it further enacted,* That if more shares shall be subscribed upon the books which shall be opened on the first Monday of April next, than the amount of the capital sum aforesaid of one hundred thousand dollars, deductions shall be made in the first instance by striking off from the subscriptions on behalf of the state, and this shall be continued until the whole number of shares subscribed for on behalf of the state shall be stricken off, or until the sum subscribed be reduced to the capital sum aforesaid of one hundred thousand dollars, *Provided nevertheless,* that nothing contained in this act shall prevent the state from appointing a director of the said company in the event that she shall hold any shares, at any time whenever the General Assembly shall think proper to make such appointment.

When there shall be an excess of shares, how to be stricken off.

Proviso for the state to appoint a director.

12. *Be it further enacted,* That the stockholders in the Deep and Haw River Navigation Company shall make known to the governor on or before the first day of March next, their acceptance or rejection of this amended charter: and if they fail to make known their acceptance or rejection by the said day, such failure shall

Former company to make known their acceptance, &c.

be held, deemed and taken, to all intents and purposes, to be an acceptance thereof.

Repealing
clause.

13. *And be it further enacted*, That all acts and clauses of acts which come within the purview and meaning of this act, or which give rights, privileges and franchises at variance with those given by this act, but which rights, privileges and franchises have not as yet been used and enjoyed, be and they are hereby declared to be repealed and made void.

Style of the cor-
poration.

14. *Be it further enacted*, That after the acceptance of this amended charter by the said company, the style and title of the said company shall be, "the Cape-Fear Navigation Company," by which name they may sue and be sued, plead and be impleaded.

CHAP. 898.

An act to alter the time of holding the superior courts of law and equity of the county of Orange.

Orange superior
court when held

1. *Be it enacted, &c.* That in future the superior courts of law and equity for the county of Orange, shall commence and be holden at the court-house in Hillsborough, on the Thursday after the second Monday in March and September, in each and every year: provided that nothing in this act shall be construed to prevent the superior courts of law and equity, for the county of Person, from continuing in session until Thursday night, provided the business of said court should require it.

2. *And be it further enacted*, That the jurors and witnesses in civil and state cases, subpoenaed to attend said court, shall be summoned to attend on the Monday of said court.

3. *And be it further enacted*, That this act shall continue in force for three years unless sooner repealed.

CHAP. 899.

(a See 1817, c.
944.)

An act to increase the fee of jailers for maintaining prisoners.(a)

30 cents per
day.

Be it enacted, &c. That after the passing of this act, the jailers of every county in this state shall be entitled to receive for finding each prisoner fuel, one pound of

wholesome bread, one pound of good roasted or boiled flesh, and a sufficient quantity of water, and every necessary attendance, thirty cents per day and no more.

Read three times and ratified in General Assembly, }
December 21, A. D. 1815. }

JOHN BRANCH, S. S.
JOHN CRAIG, S. H. C.

A Copy.—WM. HILL, Secretary.

At a General Assembly, begun and held at Raleigh, on the eighteenth day of November, in the year of our Lord one thousand eight hundred and sixteen, and in the forty-first year of the independence of the said state. William Miller, Esq. governor.

CHAP. 900.

An act supplemental to an act(a) to prevent the circulation of small promissory notes or due-bills. (a See 1809, c. 770.)

Whereas the practice of issuing due-bills or small promissory notes, commonly called due-bills, by private citizens of this state, and others styling themselves corporate bodies, has increased and continues to increase to an alarming height and degree, highly detrimental to the true interest of the state. And whereas the before recited act has been found insufficient to suppress the evil: Therefore in addition to the penalties contained in that act and as a further remedy, Preamble.

1. *Be it enacted, &c.* That from and after the passing of this act, it shall not be lawful under any pretence whatever for any person or persons, any corporation, school or academy within this state, which now is or hereafter may be established, to issue any bill, order, ticket, promissory note, or any other species of security, whatever may be its form or name, commonly called due-bills, with an intention to evade this act, under the penalty of ten pounds for each and every bill, order, ticket, promissory note, or other species of security, whatever may be its name or form, commonly called due-bills, so issued. Issue of due-bills prohibited. Penalty.

2. *And be it further enacted,* That it shall not be lawful for any person or persons, to pass or receive any bill, order, ticket, promissory note, or other species of Penalty of 10 pounds for passing or receiving.

security, whatever may be its name or form, commonly called due-bills, issued contrary to the first section of this act, or which has been already issued or is now in circulation; or for any person or persons to pass or receive any bill, order, ticket, promissory note, or other species of security, whatever may be its form or name, commonly called due-bills, issued by any person or persons, or bodies corporate of another state, under the penalty of ten pounds for each and every bill, order, ticket, promissory note, or other security, whatever may be its form or name, commonly called due-bills, so passed or received.

Penalty for passing or receiving checks, on Banks, &c. for less than a dollar.

3. *And be it further enacted*, That it shall not be lawful for any person or persons to pass or receive any check or checks drawn for less than one dollar on the state bank, the banks of Newbern or Cape-Fear, or the various branches or agencies thereof, for the benefit of any academy, school, or corporation, or company or private citizen, or any check or checks drawn on any person or persons whatsoever, under the penalty of ten pounds for each and every check so passed or received.

Manner of prosecution.

4. *And be it further enacted*, That if any person or persons shall offend against this act, he, she or they may be prosecuted at the instance of the state, by way of presentment or indictment, and on conviction shall pay the penalty heretofore prescribed, together with all costs of suit; and the proof of drawing, uttering, passing or receiving any such bill, order, ticket, promissory note or other security, shall be the same that is directed in the before recited act, and sufficient to convict the person or persons so offending.

Judges shall give this act in charge.

5. *And be it further enacted*, That it shall be the duty of the judges of the superior courts of law on their circuits, and the justices of the courts of pleas and quarter sessions, in the several counties, to give this act in charge to the grand jury, and on presentment being made, the attorney and solicitor for the state shall take effectual measures to prosecute to judgment the person or persons so offending and presented.

Appropriation of fines.

6. *And be it further enacted*, That all fines and penalties which may arise from convictions under this act, be and they are hereby appropriated, one half to the use of the prosecutor, the other to the use of the county where the offence was committed.

7. *And be it further enacted,* That if any person or persons, bodies corporate, company or association, shall, after the ratification of this act, without the authority of the legislature first had, issue any promissory notes, commonly called bank notes, of any value, with intention that the same should circulate and be received as a substitute for money, he, she, or they or the persons composing the aforesaid bodies corporate, company or association, shall be prosecuted by way of indictment at the instance of the state in any of the courts of record thereof, and on conviction shall forfeit and pay the sum of one hundred pounds, and be imprisoned at the discretion of the court not exceeding six months.

Fine and imprisonment for banking without a charter.

8. *And be it further enacted,* That so much of an act, entitled "An act to incorporate the Fayetteville School Association," as might, by construction or implication, seem to authorise the said association or its agents to issue any ticket, order, check, bill or promissory note, either what are commonly called due-bills or bank notes, of any value or description, be and the same is hereby repealed and made void.

Fayetteville association act repealed in part.

9. *And be it further enacted,* That so much of an act, entitled "An act for establishing a manufacturing company," in the county of Bertie, as might by construction seem to authorise the said company or its agents to issue any tickets, orders, checks, bills or promissory notes, either what are commonly called due-bills or bank notes, of any value or description, be and the same is hereby repealed and made void.

Bertie manufacturing act repealed in part.

10. *And be it further enacted,* That in case the Fayetteville school association or Bertie manufacturing company, or their agents respectively, or any person or persons, school or academy, or corporation or company, shall refuse or neglect to pay on demand, any bill, ticket, check, order, promissory note or other species of security, whatever may be its form or name, either what are commonly called due-bills, checks, or bank notes, the holder shall be entitled to recover one hundred per centum on the principal due on said due-bill or bank note.

Bertie manufacturing company or Fayetteville school association, &c. failing to pay, may recover 100 per cent. of them.

11. *And be it further enacted,* That so much of the act as relates to the passing or receiving of due-bills or bank notes intended to be prohibited by this act, already issued, stands suspended until the first of July, eighteen hundred and seventeen.

Operation of part of this act suspended.

CHAP. 901.

(a See 1777, c. 115, 118, 129.) An act for the better regulating the appointments of county court officers.(a)

Majority of justices necessary. 1. *Be it enacted, &c.* That in future in the appointment of any sheriff, coroner, county trustee, clerk of the county court, register and county attorney, there shall be present a majority of the acting justices of the peace of the county, and no person shall be deemed to be duly elected without receiving a majority of the votes of the justices present.

Seven justices necessary.

(See 1741, c. 24, s. 2, 1803, c. 640.)

2. *And be it further enacted,* That in the appointment of any ranger, constable or other county officer, not named in the first section of this act, there shall be present at least seven justices of the peace of the county, and no person shall be deemed duly elected without receiving a majority of the votes of the justices present: *Provided,* that nothing in the first section of this act shall extend to the counties of Surry, Stokes, Granville and Burke.

CHAP. 902.

An act making it the duty of sheriffs to serve notices of the clerks of courts and clerks and masters in equity to parties concerned, to attend on the days of reference at making up reports, and for other purposes.

Whereas much inconvenience has arisen on account of sheriffs not being compelled to serve notices as above recited, for remedy whereof,

Sheriff's duty.

(His fee thirty cents, by 1817, c. 956.)

1. *Be it enacted, &c.* That from and after the passage of this act, it shall be the duty of the several sheriffs within this state to serve all notices issuing from clerks of courts and clerks and masters in equity, to parties concerned in all references to them made, and for neglect or failure to do the same, shall be subject to the same penalties as by law provided for omissions or neglect in serving other process issuing to them.

2. *Be it further enacted,* That all acts coming within the purview and meaning of this act, be and the same are hereby repealed and made void.

CHAP. 903.

an act to provide for the appointment of clerks of the superior courts of law, and clerks and masters in equity, during the recess of said courts.

1. *Be it enacted, &c.* That whenever a vacancy shall happen in the office of clerk of any of the superior courts of law, or in the office of clerk and master in equity, in any county in this state, the judge residing within the judicial circuit in which such vacancy shall happen, shall appoint some suitable person residing in said county to fill the said vacancy: (a) and if no one of the judges of the said courts shall reside within the circuit in which such vacancy shall happen, then the chief-justice: when two or more judges shall reside in the said circuit, if one of said judges shall be the chief-justice, then such chief-justice, otherwise the senior judge may appoint some suitable person, residing in the county as aforesaid, to fill the said vacancy; and the person so appointed, shall before the judge, who shall make such appointment, or before some justice of the peace, duly commissioned by the said judge for that purpose, take the oaths prescribed by law for the qualification of clerks of the superior courts of law, and clerks and masters in equity: and if such appointment shall not be made during the recess of the court in which such vacancy shall happen, the judge who shall ride the circuit, including the county wherein such vacancy shall happen, next after the happening thereof, shall appoint some suitable person residing in said county, to fill said vacancy: and in every case the judge so next riding the said circuit, shall take bonds with good and sufficient security as the law directs, from the person so appointed, either by himself, the judge residing within the said circuit, or the chief-justice: and if the person so appointed, fail to enter into bonds with security as aforesaid, the judge holding the court shall appoint some other suitable person as aforesaid to fill the said vacancy.

By whom appointed.

(a This section altered as to appointment of clerk, by 1818, c. 963, s. 11.)

2. *Be it further enacted,* That where such appointment shall be made, either in vacation or in term time, the judge making the same shall give to the person appointed an order on the person or persons in whose custody the records of said court shall be, who shall deliver the same in obedience to the said order.

Delivery of records.

Provision for
filing appeals
when clerk's
office vacant.

3. *Be it further enacted*, That whenever any appeal shall be had from the county court to the superior court of law, and a vacancy shall have happened in the office of clerk of the said superior court, so that the appellant cannot file the transcript of the record, within the time prescribed by law, on the appellant's making it appear to the satisfaction of the court, to which the said appeal shall be returnable, that he had made application to the clerk of the county court for a transcript of the record within time to have filed the same fifteen days before the sitting of the said superior court, the transcript of the record shall be filed in said court, and the cause shall stand for trial at the succeeding term.

CHAP. 904.

(a See 1810,
c. 788, 1811,
c. 806.)

An act to alter and amend the charter of the State Bank of North-Carolina.(a)

Whereas it is expedient and will be advantageous to alter and amend the charter of the State Bank of North-Carolina, and whereas the stockholders of the said bank, at a general meeting, have given their assent to the following alterations and amendments of the said charter:

Treasurer directed to issue
80,000 dollars in
treasury notes.

Be it therefore enacted, &c. That the treasurer of this state be authorised and directed, and he is hereby authorised and directed as soon as he can conveniently do the same, to issue the sum of eighty thousand dollars in treasury notes, of the following denominations, to wit: of five cents, six and a quarter cents, ten cents, twelve and a half cents, twenty cents, twenty-five cents, thirty cents, forty cents, fifty cents and seventy-five cents; and these notes shall have such margin and devices as the treasurer shall think proper to adopt, shall be made payable to bearer, at the treasury of this state, shall be dated, numbered and signed by the treasurer, or by such person or persons as he may appoint and employ to assist him in dating, numbering and signing the same, under his immediate control, superintendence and inspection, and immediately paid over by him to the cashier of said bank: they may be thrown into circulation by the said bank, and they shall be redeemed by the treasurer from time to time, as they shall be pre-

sented for payment, and by him may again be circulated, and they shall be receivable in debts and taxes due to the state. And the said treasury notes when so received by the cashier, shall be in part payment of the debt due from this state to the said bank, and the interest accruing on so much thereof shall immediately cease.

CHAP. 905.

An act declaring the duty of clerks and for other purposes.

1. *Be it enacted, &c.* That from and after the passing of this act, it shall be and is hereby declared to be the duty of the clerk of the court of pleas and quarter sessions in the several counties in this state respectively, to issue, ex officio, summons returnable to next court, against all guardians, whether resident in the same or any other county, who shall fail to appear and exhibit his, her or their account as required by the provisions of the act passed in the year seventeen hundred and sixty-two.(a)

Clerk shall summon guardians.

(a c. 69.)

2. *And be it further enacted,* That if any clerk shall neglect or refuse to perform the duty herein enjoined upon him, he shall forfeit and pay the sum of fifty pounds, to be recovered by action of debt, before any court having jurisdiction thereof, to be applied to the use of the ward of said guardian.

Penalty in case of neglect.

3. *And be it further enacted,* That the clerk, for issuing the summons herein directed, shall be entitled to demand and receive the sum of sixty cents, to be collected by the sheriff or other officer, at the time of serving said summons, and accounted for to the clerk at the return of the same: *Provided,* that nothing herein contained shall be construed to subject to payment of costs aforesaid, any guardian who may have before the return of such summons, finally settled with his ward, or will make it appear to the court that he was prevented by sickness or other unavoidable cause from exhibiting his account agreeably to the directions of the act of seventeen hundred and sixty-two.

His fees.

CHAP. 906.

(a See 1798,
c. 501, s. 2,
1818, c. 984.)

Seven justices
must be present
to grant a li-
cense.

An act to compel retailers of spirituous liquors by the small measure to take a license from the county court, and for other purposes.(a)

1. *Be it enacted, &c.* That from and after the first day of March next, every person wishing to retail spirituous liquors by the small measure shall apply to the county court of pleas and quarter sessions of the county in which they reside, and obtain a license therefor, which license shall be granted by the said court, seven justices being present on the bench, to such person or persons only as may give satisfactory evidence to the said court of their good conduct and moral character. And upon the same being granted, as aforesaid, the party praying such license shall pay to the clerk of the said court the sum of forty-eight shillings, and thereupon obtain from the said clerk a license to retail spirituous liquors at their usual place of residence, for the term of one year. And the said clerk shall account for, and pay into the treasury of this state, the sum of forty shillings, for each and every license by him issued, as aforesaid, at the time of making his return of taxable property.

Penalty.

2. *And be it further enacted,* That if any person shall retail spirituous liquors by the small measure contrary to the true intent and meaning of this act, such person or persons so offending shall be subject to indictment, either in the county or superior court, for the same, and upon conviction shall be fined at the discretion of said court, a sum not less than five pounds for each and every offence.

Former acts re-
pealed.

3. *And be it further enacted,* That so much of the laws of this state as authorises retailers to enlist themselves as such, with the justice at the time of taking a list of their taxables, and all other laws which come within the meaning of this act, be and the same are hereby repealed and made void.

CHAP. 907.

(a See 1773, c.
100, s. 1 and 2.)

An act to explain and amend an act passed in the year 1773, chapter 4th, entitled An act for the relief of insolvent debtors, with respect to the imprisonment of their persons.(a)

Preamble.

Whereas it frequently occurs that debtors taken in execution, are removed for safe keeping from the county

where the judgment was obtained to the jail of some other, and doubts are entertained whether the justices of the peace of any county but the one from whose court the execution issued, can legally discharge a debtor, under the insolvent debtor's law, whereby much hardship is often sustained by such debtors; for remedy whereof,

Be it enacted, &c. That the justices of the peace of any county within this state shall and may legally cause to be brought before them, any person confined for debt within the jail of their county, and to administer to him, her or them the oath prescribed for the relief of insolvent debtors, and grant him, her or them a discharge as well when the execution under which the person of said debtor is confined has issued from the court of another county, as where it issued from the court of their own county: *Provided*, that nothing in this act shall be construed to repeal that part of said recited act which requires notice to be served on the creditor or creditors of such debtor or debtors.

Justices may administer the oath, whether the execution issued from their county or from another.

CHAP. 908.

An act allowing further time for registering grants, proving and registering deeds, mesne conveyances, powers of attorney, bills of sale and deeds of gift. (a) (a See 1814, c. 875.)

1. *Be it enacted, &c.* That all grants for lands in this state, all deeds of mesne conveyance, powers of attorney, under which any lands, tenements or hereditaments have been, or may be conveyed, bills of sale, deeds of gift, already proved, as deeds of conveyance are required to be proven, or which may hereafter be proven, shall and may within two years after the passing of this act be admitted to registration, under the same rules, and regulations, and restrictions as heretofore appointed by law; and said grants, deeds, mesne conveyances, powers of attorney, bills of sale, and deeds of gift, shall be as good and valid as if they had been proven and registered within the time heretofore allowed, any law to the contrary notwithstanding.

Two years allowed.

2. *Be it further enacted*, That all deeds issued from the office of the late earl Granville, and not already registered, may have a further time of twelve months al-

Earl Granville's deeds allowed 12 months.

(a See 1818,
c. 967, s. 2.)

lowed for registration, and the proof necessary thereto, shall be by parity of hands, which shall be good and valid in law.(a)

CHAP. 909.

(a See 1815, c.
892.)

An act to amend an act passed in the year one thousand eight hundred and fifteen, entitled an act making further provision in favor of the owners of strays.(a)

Whereas the above recited act lays additional duties on the rangers without any compensation therefor :

Rangers allow-
ed 50 cents ad-
ditionally.

Be it enacted, &c. That the rangers shall be allowed the sum of fifty cents, over and above the sum now allowed for each stray by them advertised, according to the provisions of the before recited act, to be paid by the taker up of said stray, which sum shall be repaid by the owner.

CHAP. 910.

An act to direct the disposal of negroes, mulattoes and persons of colour, imported into this state, contrary to the provisions of an act of the Congress of the United States, entitled "an act to prohibit the importation of slaves into any port or place, within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight."

Shall be sold
for the use of
the state.

1. *Be it enacted, &c.* That each and every negro, mulatto, or person of colour, imported into this state, from any foreign port or place for a slave, or to be held to service or labour, since the first day of January, in the year one thousand eight hundred and eight, contrary to the provisions of an act of Congress, entitled "an act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight," approved the second day of March, 1807,(b) (except as hereinafter provided) shall be sold and disposed of for the use of the state.

(b See act of
Congress 1807,
N. E. U. S.
Laws, c. 77. p.
94, 4th vol.)

Sheriff's duty in
seizing and sell-
ing.

2. *Be it further enacted,* That the sheriff of each county of this state shall, and he is hereby authorised and required, to seize and take into his possession, every negro, mulatto and person of colour, of the description

aforesaid, as well those which have been, as those which shall be imported as aforesaid, found or which shall be found, in the county of which he is sheriff, and such negro, mulatto or person of colour, so taken in his possession, to sell and dispose of at public sale (giving previous notice of fifteen days of the time of such sale, by advertisement in one of the newspapers published in this state,) to the highest and best bidder, at a credit of six months, the purchaser entering into bond with security, to be approved by said sheriff, for the payment of the purchase money, which money when received, the sheriff so receiving shall account for and pay to the treasurer of this state, after deducting from the gross amount thereof, the several sums hereinafter authorised by him to be retained: the monies collected by virtue of this act shall be paid and accounted for at the treasury, by the several sheriffs, at the same time, and under the regulations and penalties as prescribed in accounting for and paying the public taxes.

3. *Be it further enacted*, That where any such negro, mulatto or person of colour, as is above mentioned, shall abscond, or so conceal him or herself, that he or she cannot be taken by the sheriff, said sheriff may offer a reward not exceeding one-fifth part of the value of such negro, mulatto or person of colour, to any person or persons who shall apprehend and deliver him or her to the sheriff or his deputy, and shall then sell said negro, mulatto or person of colour, as above directed; or such sheriff may in his discretion proceed to advertise and sell such negro, mulatto or person of colour, as directed in the foregoing section, without offering a reward, although such negro, mulatto or person of colour, may not be in the custody or possession of said sheriff, at the time of said sale.

In case of absconding.

4. *Be it further enacted*, That whenever any person shall discover any negro of the description aforesaid, in any county of this state, and give such notice thereof to the sheriff of the county, that he shall, in consequence of such information, obtain the said negro, mulatto or person of colour, the person or persons giving such information shall be entitled to receive from the said sheriff, one-fifth part of the sum for which said negro, mulatto or person of colour shall afterwards sell, to be retained as well as the reward offered as directed in the preceding section, out of the proceeds of the sale, and paid to the person entitled to the same by the sheriff.

Persons who discover negroes &c. to have one-fifth part of value thereof.

To be sold at
court-house and
conveyed by
bill of sale.

5. *Be it further enacted*, That all sales by virtue of this act shall be made at the court-house of each respective county, and the sheriff selling, or his successor, in case of his death, resignation or removal from office, shall execute and deliver to the purchaser, his executors, administrators or assigns, a bill of sale for such negro, mulatto or person of colour so sold, which shall vest in the purchaser the absolute property in the same, and the title so acquired shall not be affected by the want of advertisement, or by any other irregularity in such sale or proceedings, on the part of the sheriff.

Sheriff's com-
missions, &c.

6. *Be it further enacted*, That every sheriff selling as aforesaid, may retain out of the purchase money of such negro, mulatto or person of colour, so sold, besides the rewards above directed to be paid, and besides the reasonable charges at which the said sheriff shall be, in keeping such negro, mulatto or person of colour till the day of sale, and in advertising as aforesaid, the further sum of six per centum on the gross proceeds of such sale, which shall be in full compensation of his services.

Former purcha-
ses confirmed.

7. *Be it further enacted*, That where any person or persons shall have purchased before the 18th of November, 1816, for a fair and valuable consideration, any such negro, mulatto or person of colour so imported into this state contrary to the provisions of the said act of Congress, of and from any person or persons originally importing such negro, mulatto or person of colour, or the master, agent or attorney of such importer or importers, and such sale or purchase shall not be merely colorable to defeat or evade the provisions of this act, in that case the sheriff in whose county such negro, mulatto or person of colour is found, and the sheriff of the county where such purchaser resides, shall not proceed to sell such negro, mulatto or person of colour, but upon due proof being made of such sale and purchase before the chief or other justice of the supreme or superior courts, such chief or other justice shall give to such purchaser, a certificate under his hand, directed to the sheriff of the county where such negro, mulatto or person of colour is or the purchaser resides, specifying the negro, mulatto or person of colour, with respect to which such proof shall have been exhibited, and on receipt of such certificate, such sheriff shall execute and deliver to such purchaser or his representative, a bill of

sale for such negro, mulatto or person of colour, and the benefit of this section shall extend to the assignee or assignees of such purchaser, as well as to such purchaser and his representatives.

8. *And be it further enacted*, That the several provisions of this act shall extend and apply to every negro, mulatto and person of colour, the issue of any negro, mulatto or person of colour so imported as aforesaid.

This act to extend to the issue of negroes, &c. so imported

CHAP. 911.

An act concerning public jails, court-houses and stocks.

1. *Be it enacted, &c.* That the justices in the several counties in this state, shall, from time to time, lay a sufficient tax to erect and keep in good repair, the public jail, court-house and stocks^(a) in their respective counties, and the public jails shall be constructed in the manner and with the number of apartments now directed by law.^(b)

County court to lay a tax.

(a Sec 1741, c. 33.)

(b Sec 1795, c. 433, s. 5.)

2. *Be it further enacted*, That it shall be the duty of the jailer, or keeper of any public prison, to cleanse each and every day, the room of the prison in which any person shall be confined, and cause all filth to be removed therefrom, and also to furnish to the prisoner or prisoners, confined in said jail, good and wholesome water, at least three times in each and every day.

Jailer's duty, in cleansing prisons, &c.

3. *Be it further enacted*, That it shall be the duty of the grand jury, in each county, at every court holden for the said county, to visit the jail of said county, and examine the apartments in which prisoners shall be confined, and they shall report to the court the condition of the said jail, and of the prisoners confined therein, and also shall report to the court the manner in which it shall appear to them, the jailer has discharged the duties imposed by this act.

Grand jury to visit jails, &c.

4. *Be it further enacted*, That the county courts shall regulate the allowances to be made to persons summoned to guard their respective jails.^(c)

Allowance to guards.
(c Sec 1795, c. 433, s. 8.)

CHAP. 912.

(a See 1741, c. 35, 1793, c. 381, 1807, c. 719.)

An act to amend the laws(a) in force respecting the trial of slaves in capital cases.

Trial of slaves.

1. *Be it enacted, &c.* That in all cases in which a slave or slaves shall be charged with the commission of an offence, the punishment whereof may extend to life, the superior courts of law shall have exclusive jurisdiction within their respective counties, the trial shall be conducted in the same manner, and under the same rules, regulations and restrictions, as trials of freemen for a like offence are now conducted, except as is hereinafter provided, and notice of trial shall be given to the owner or owners of such slave or slaves, in the manner now directed in the case of the trial of slaves in the county courts.

Removal of trial.

2. *Be it further enacted.* That such cases may be removed for trial to an adjoining county, upon affidavit of the owner, or in his absence, of the counsel of such slave or slaves, in the same manner as causes may now be removed by freemen.

Shall be tried, for capital offences, by presentment or indictment only.

3. *Be it further enacted,* That a slave shall not be tried for a capital offence, but on presentment or indictment of the grand jury, and on his trial shall be entitled to the right of challenge for cause only, which challenge he shall make by and with the advice and assistance of his owner, or in his absence, of his counsel.

Entitled to benefit of clergy.

4. *Be it further enacted,* That a slave convicted of a clergiable offence, shall be entitled to the benefit of clergy, in like manner with a free man.

Court of oyer and terminer.

5. *Be it further enacted,* That in all cases of conspiracy, insurrection, or rebellion of slaves, upon the information, and at the request of any five justices of the peace of the county in which such conspiracy, insurrection, or rebellion shall happen, it shall be the duty of the governor for the time being, to issue a commission of oyer and terminer, to any of the judges of the superior courts of law, for the trial of such slaves, in the manner prescribed in the act of 1777, chapter 2,(a) and of 1779, chapter 6.(b)

(a C. 115.)

(b C. 157.)

3. *Be it further enacted,* That all laws and clauses of laws, which come within the meaning and purview of this act, be and the same are hereby repealed.

CHAP. 913.

An act concerning the estate of persons dying intestate.(a) (a See 1715, c. 10.)

Whereas great loss to estates is sometimes suffered, where persons die intestate during the recess of the county courts, for the want of authority, in some person, to collect the assets, and expose to sale such parts thereof as are likely to perish, or be much impaired in value, before the sitting of the next court of pleas and quarter sessions, of the county in which the said deceased had his last usual place of residence.

Preamble:

Be it enacted, &c. That where any person shall die intestate, and his or her estate is in such situation as to require the immediate care of some discreet person, it shall be lawful for any three justices of the peace, of the county in which the deceased had his or her last usual place of residence, to meet together at the clerk's office of the said county, and to grant to some discreet person special letters of administration on the estate of the said deceased, authorising and empowering said person to collect and take into his or her possession the estate of the said deceased, until the next ensuing court of pleas and quarter sessions of said county, and to expose to public sale upon a credit, not more than twelve, nor less than six months, so much of the crop, stock and provisions on hand, as the said three justices may deem advisable; and a schedule of such stock, crop and provisions so directed to be sold, shall be made out by the said three justices, and a copy thereof signed by them shall be filed with the clerk of the said county; and the said justices, before granting letters of administration as aforesaid, shall require and take from the person to whom the same shall be granted, bond with approved security in such sum as the said three justices shall order and direct, conditioned for his or her faithful administration of the said estate, until the next ensuing court of pleas and quarter sessions of the said county, and for his or her faithfully accounting for and delivering over the said estate to such person or persons as the said court shall appoint as administrator of the said estate. And the said bond shall be filed with the clerk of the said county court for safe-keeping, and the said county court shall proceed to grant general letters of administration to such person or persons as are or may

Special letters of administration granted.

Bonds to be taken and filed.

Clerk's fees.

be legally entitled to the same, and the same fees shall be allowed to the clerk of the said court, for taking the bond first mentioned as aforesaid, as are allowed by law for taking bonds in common cases of administration: *Provided*, that nothing in this act contained shall prevent the family of the deceased from using the crop, stock and provisions of the deceased, until the granting of the said special administration; nor affect or impair the rights of the widow to a year's allowance as now established by law.(a)

(a See 1796,
c. 469, 1813,
c. 858.)

CHAP. 914.

An act concerning the navigation of Neuse River and to amend an act passed in the year one thousand eight hundred and twelve, entitled an act for opening and improving the navigation of Neuse river.(b)

(b See 1812,
c. 849.)

Privileges the same as granted to Roanoke Company.

(c See 1812,
c. 848.)

1. *Be it enacted, &c.* That all the rights, privileges and franchises granted to the Roanoke Navigation Company, by the fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, seventeenth and eighteenth sections of an act passed in the year one thousand eight hundred and twelve,(c) entitled "An act for improving the navigation of Roanoke River, from the town of Halifax to the place where the Virginia line intersects the same," be and they are hereby granted to the "Neuse River Navigation Company," incorporated by an act passed in the year one thousand eight hundred and twelve, entitled "An act for opening and improving the navigation of Neuse River;" and the said sections shall constitute and form part of the charter of the said company as applied to the Neuse River and the streams which run into the same.

Right extended from the sources to Fort Barnwell.

2. *And be it further enacted.* That the rights, privileges and franchises of the said Neuse River Navigation Company, shall extend from the sources of the Neuse River to Fort Barnwell in Craven county, and of the several rivers and creeks running into the said river above that place; and the president and directors of the said company shall have power, and they are hereby authorised to engage persons to improve the navigation of the Neuse River and its waters as aforesaid, by canals, locks and sluices or otherwise as may be deemed most expedient.

5. *Be it further enacted*, That the general meeting of the stockholders in the said company shall be held in the city of Raleigh, or at such other place as the stockholders or the president and directors of said company shall appoint: and the president and directors shall continue in office until others shall be appointed by the stockholders, in general meeting. At any time or times after the first day of February next, books may be opened for receiving subscriptions for an increase of the capital stock of the said company, at the discretion of the stockholders, or a majority of them, for such sum or sums as in their opinion will be sufficient to effect the purposes of the navigation aforesaid, and the other purposes of this act; and if at any time, when books shall be opened as aforesaid, more shares shall be subscribed than the said books shall be opened for, the president and directors shall proceed to strike off from the said subscriptions until the same shall be reduced to the sum for which the said books shall be opened: and in striking off from the said subscriptions, they shall proceed in the manner prescribed in the first section of the act aforesaid, passed in the year one thousand eight hundred and twelve, entitled "An act for improving the navigation of Roanoke River, from the town of Halifax to the place where the Virginia line intersects the same:" *Provided*, that there shall in no case be a striking off from the subscription of the state.

Meeting of
stockholders

Books may be
opened.

How to strike
off the excess
of subscriptions

4. *Be it further enacted*, That the president and directors shall designate the persons under whose care the books shall be opened for receiving subscriptions for an increase of capital stock, and determine how long and at what places the said books shall remain open; but the said books shall remain open at least twenty days.

Books by whom
opened, how
long to remain
open, &c.

And whereas it may become necessary to sell some of the shares of the said subscribers for balances which may be due thereon.

5. *Be it further enacted*, That the books of the said company shall be deemed good evidence of such sale, and of the purchase of said shares.

The books evi-
dence of sales
of shares.

And whereas by improving the navigation of the Neuse River, and the various streams which run into the same, the said company will become entitled to tolls at different places, but of unequal amount.

6. *Be it enacted*, That the stockholders in a general meeting, or the president and directors, shall have power

Tolls

to regulate and determine the tolls which shall be paid, and from time to time alter the said tolls: *Provided*, that the said tolls shall be so fixed that the profits arising therefrom shall not exceed fifteen per cent. per year upon the capital stock actually paid for the purposes of the said navigation, after payment of all the sums allowed annually to the officers of the said company, expenses incurred for repairs and other incidental charges: and the president and directors shall so apportion the tolls to be paid at different places on the said river, as to do equal and impartial justice, as near as may be, to all persons transporting commodities along the said navigation, and shall be so regulated that the different persons transporting commodities along the said river, shall, as near as may be, pay tolls proportioned to the advantages derived by them from the improvements of the navigation of said river, by the company aforesaid: and where no improvements shall be made, no tolls shall be levied.

General Assembly may call for an account.

Toll bridges.

7. *Be it further enacted*, That the General Assembly may, from time to time, call upon the president and directors of the said company for an account of the capital stock actually paid as aforesaid, and of the amount of tolls received, which amount shall be rendered upon oath, and the president and directors of the said company, whenever a majority of the stockholders in general meeting shall deem the same to be advisable, shall be and they are hereby authorised, out of the capital stock aforesaid, or the tolls which shall be received, to construct one or more toll bridges across the Neuse River, or any of the streams which run into the same: and for the condemnation of lands necessary for the erection of abutments of said bridges, and the erection of toll-houses, the same proceedings shall be had as are prescribed for the condemnation of lands for canals in and by the act aforesaid, passed in the year one thousand eight hundred and twelve.

Turnpike from Raleigh.

8. *Be it further enacted*, That the president and directors of the said company be and they are hereby authorised to make or construct a turnpike road, from the city of Raleigh to some convenient point on the Neuse River, not more than ten miles distant from said city, and for the condemnation of lands necessary for the said turnpike road, and the erection of toll-houses thereon, the same proceedings shall be had as are prescribed for

the condemnation of lands for canals in and by the act mentioned in the preceding section, except as to so much of said road as shall be laid off across the public lands adjacent to the city of Raleigh; and the said company shall be and they are hereby authorised to lay off said road across said public lands, and to construct the same thereon, free and clear of any charge to the state, for and on account of the same, and the said company shall be entitled to ask and receive tolls from all persons travelling or passing along the said turnpike, and for all commodities transported along the same: and the president and directors shall regulate and determine the said tolls in such way, that they shall not receive more than fifteen per cent. annually upon the capital stock, actually paid for the purposes of the said turnpike, after payment of all sums allowed annually to the persons employed as toll-gatherers or otherwise on the said turnpike, expenses incurred for repairs and other incidental charges. Profits limited.

9. *Be it further enacted*, That the treasurer shall subscribe on behalf of the state, on the books of the said company, when they shall be opened for receiving subscriptions for an increase of the capital stock of the said company, sixty shares, and the state shall be upon the same footing with other subscribers, as to payments to be made for shares, and the state may appoint a director of said company at any time when the General Assembly shall think proper, who shall hold such appointment until the next General Assembly thereafter, and no longer, unless re-appointed. The treasurer shall represent the state in all the meetings of the stockholders, either personally or by proxy. The several banks in this state and all other bodies politic and corporate, shall be and they are hereby authorised to subscribe for shares in the said company, and to hold and enjoy the same in the same way as other subscribers. State subscrip-
tions.

Treasurer to
represent the
state, &c.

Banks may sub-
scribe for shares

10. *Be it further enacted*, That if the said company shall not complete the said navigation so as to admit the safe passage of boats through the same, and also complete the said turnpike road within ten years after the first day of January next, all preference in favor of the said company shall be forfeited, as to the stream or streams not made navigable, and all rights, privileges and immunities, to the said turnpike, or for or on account of the same, shall cease and determine. Time for com-
pleting the na-
vigation.

Acceptance of
this act by the
stockholders.

11. *Be it further enacted*, That the stockholders in the Neuse river navigation company aforesaid, shall make known to the governor on or before the first of March next, their acceptance or rejection of this amended charter, and if they fail to make known their acceptance or rejection on or before the said day, such failure shall be deemed and taken to be an acceptance thereof: and all acts and clauses of acts which come within the meaning and purview of this act, or which grant rights, privileges and franchises at variance with those given by this act, but which rights, privileges and franchises have not as yet been used or enjoyed, be and the same are hereby repealed and made void.

CHAP. 915.

An act to control and vest lapsed legacies in certain cases.

Preamble.

Whereas it is a rule of the common law as in force and use in this state, that where any person makes a last will and testament in writing, and devises any portion of his or her estate, to his or her child or children, and the heirs, executors, administrators and assigns of such child or children, and such child or children dies before such testator or deviser, leaving issue, that then and in such case the legacy, share or proportion of such testator's estate so devised, lapses or falls into the residuum where one is devised, and in other cases descends and is distributable among his next of kin generally, as in cases of intestacy, to the prejudice of the beneficent views of such testator, and to the just expectations of the issue of such child or children: for prevention whereof,

A devise to a
child shall vest
in *his* children,
in case he dies
before the tes-
tator.

1. *Be it enacted, &c.* That when any person shall hereafter die, leaving a last will and testament in writing, and thereby devise any share of his or her estate, to his or her child or children, without more saying, or to such child or children, his, her or their heirs, executors, administrators or assigns, and such child or children shall have died in the life of such testator or testatrix, in every such case the said legacy, devise, or bequest shall take effect and vest a title to the property or share of estate described and mentioned in the same, in the issue of such child or children, if any, in the same

manner, and to the same extent, as it would have vested it in such child or children, had he, she or they been in full life at the death of the testator and the taking effect of such will; any law or rule of law to the contrary in any wise notwithstanding.

2. *And be it further enacted,* That this act shall be in force from and after its passage.

CHAP. 916.

An act to annex part of Beaufort to the county of Martin.

Be it enacted, &c. That from and after the passing of this act, the line dividing the counties of Beaufort and Martin, shall run in the following manner, (viz.) Beginning where the line that now divides the said counties intersects the Bear Grass swamp, running along the main drain of said swamp, to the main drain of Tranter's creek, thence up the main drain of said creek to the mouth of the Flat swamp, the present dividing line between the counties of Martin and Pitt, any law to the contrary notwithstanding.

Dividing line between Beaufort and Martin.

CHAP. 917.

An act to establish a superior court of law and court of equity, in the county of Columbus and for other purposes.

1. *Be it enacted, &c.* That there shall be a superior court of law and court of equity, opened and held in the county of Columbus, on the second Monday after the fourth Monday in March and September next, and on the second Monday after the fourth Monday in March and September in each and every year thereafter, which courts shall have the same jurisdiction that the present superior courts of law and courts of equity, in the several counties in this state now have and exercise.

Time of holding court.

2. *And be it further enacted,* That the county of Columbus shall hereafter constitute a part of the fifth circuit, and the judge and solicitor, who may attend the superior courts in said county, shall be entitled respectively to the same pay for attending said courts, that they are now by law entitled to receive for attending other superior courts in said circuit.

A part of 5th circuit.

Same rules and powers as other superior and county courts.

3. *And be it further enacted,* That the said superior courts, and also the county courts of Columbus shall be held in the same manner, and exercise the same powers and authorities, and be subject to the same laws, rules, regulations and restrictions of the other superior courts and county courts of the several counties in this state.

Clerks to be appointed.

4. *And be it further enacted,* That the superior courts hereby established shall in all respects have the same powers as the other superior courts of this state. That a clerk and clerk and master in equity, both of skill and probity, and residents in the county of Columbus, shall be appointed for the same by the judge attending the first term of said court, the said clerk and clerk and master in equity shall give bonds and security as directed by law for such officers, and take the oaths prescribed for their qualification. The county court of Columbus shall appoint thirty jurors to attend the said court in the same manner that jurors are appointed to attend the other superior courts of this state.

And jurors.

Removal of causes.

5. *And be it further enacted,* That all civil causes depending in the superior courts of law and equity for Bladen county, the plaintiff in which causes resides in Columbus county, and also all actions of ejectment and trespass quare clausum fregit, for and concerning lands lying in Columbus county, shall be transferred with the process and proceedings thereon to the superior court of law of the county of Columbus hereby established; and the provisions of an act passed in the year 1806, entitled An act amendatory and supplemental to an act, entitled "An act for the more convenient administration of justice, passed at the present session of the General Assembly" for the appointment, summoning and attendance of jurors, for the transmission and receipt of the records, proceedings and papers for docketing, and bringing the causes forward for trial; for summoning witnesses, for issuing original and mesne process, prior to the first term of Columbus superior court, and generally for all other purposes relative to the preparation for trial and determination of the business of said court, be, and the same are hereby extended to the superior courts of Columbus county; the neglects and failures of the several officers of the superior courts of Bladen and Columbus, and of the county court of Columbus, shall be subject to the same penalties and forfeitures as are prescribed for similar neglects and failures by the

said act, and the said officers shall be entitled to the same fees for their services as are established by the said act for like services.

6. *And be it further enacted*, That the superior courts of the several counties hereinafter mentioned, shall, after the next spring circuit, be opened and held on the days following, (a) to wit: The superior court of the county of Montgomery shall be opened and held on the first Mondays in March and September in each and every year; the superior court of the county of Anson shall be opened and held on the second Monday of March and September in each and every year; the superior court of the county of Richmond shall be opened and held on the third Monday of March and September in each and every year; the superior court of the county of Robeson shall be opened and held on the fourth Monday of March and September in each and every year; the superior court of the county of Bladen shall be opened and held on the first Monday after the fourth Monday of March and September in each and every year; the superior court of the county of Columbus shall be opened and held on the second Monday after the fourth Monday of March and September; the superior court for the county of Brunswick shall be opened and held on the Thursday following, that is to say, of the same week; the superior court of the county of New-Hanover shall be opened and held on the third Monday after the fourth Monday in March and September in each and every year; the superior court of the county of Sampson shall be opened and held on the fourth Monday after the fourth Monday of March and September in each and every year; the superior court for the county of Cumberland shall be opened and held on the fifth Monday after the fourth Monday of March and September in each and every year; the superior court for the county of Moore shall be opened and held on the sixth Monday after the fourth Monday of March and September in each and every year; and all process and proceedings of every kind, depending in and issued from any of the said superior courts at the time when the alteration of the terms thereof above prescribed shall take effect, shall stand continued and be returnable accordingly.

Time of holding the courts of 5th circuit.

(a See 1806, c. 693.)

7. *And be it further enacted*, That nothing in this act contained shall be construed to prevent the trial of any

cause in the superior court of Bladen county at the next term thereof.

CHAP. 918.

An act to provide a suitable punishment for persons convicted of felonies within clergy.

In clergiable felonies, whipping or fine may be substituted for burning of the hand.

Be it enacted, &c. That when any person shall hereafter claim his or her benefit of clergy, upon conviction of any felony, and the same shall be allowed, it shall be in the power of the court before which such conviction was had, instead of the burning of the hand of such convict, to order and adjudge him or her to receive one or more public whippings, or to pay a moderate pecuniary fine in the discretion of said court, under all the circumstances of the case, and the entry of such judgment shall have the same legal effects and consequences to all intents and purposes as if the person so convicted had been burned in the hand, in presence of the court as heretofore practised.

CHAP. 919.

An act to incorporate a company for the purpose of cutting a canal and improving the navigation of New River in Onslow county.

Books to be opened for \$20,000, &c.

1. *Be it enacted, &c.* That it shall and may be lawful to open books in the county of Onslow, on the first Monday in March next, under the management of Christopher Dudley, Solomon E. Grant, William P. Ferrand, Edward Ward, Eli W. Ward, William L. Hill, Daniel Nixon, Leonard Humphrey and James Glen, for receiving and entering subscriptions to the amount of twenty thousand dollars, for said undertaking, which subscriptions shall be made personally or by power of attorney, and may be paid in money current in the state, and shall be kept open until the said sum shall be subscribed, and the said capital sum shall be divided into shares of one hundred dollars each, of which every person subscribing may take and subscribe for one or more whole shares, and not otherwise, and each person at the time of subscribing, shall pay down

to the managers twenty dollars, and as soon as the whole number of shares, or one half of the same shall have been subscribed, the managers aforesaid shall call a meeting of the subscribers, which shall be advertised at three public places in the county at least one month before the day appointed for the said meeting: *Provided*, that unless one half of the said capital shall be subscribed, all subscriptions made in consequence of this act shall be void, and the money paid as aforesaid on account of each share shall be paid back to the respective subscribers; and in case one half and less than the whole of the capital shall be subscribed as aforesaid, then the president and directors are hereby empowered and directed to take and receive the subscriptions which shall be first offered in whole shares as aforesaid until the whole number of shares shall have been made up.

2. *And be it further enacted*, That in case one half of the said capital, or a greater sum shall be subscribed as aforesaid, the subscribers, and their heirs and assigns, from the time of the said first meeting shall be, and they are hereby declared to be incorporated into a company, by the name of New River Canal Company, and may sue and be sued, plead and be impleaded as such, and such of the subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a president and six directors for conducting the said undertaking, and managing all the said company's business and concerns for and during such time, not exceeding three years, as the subscribers, or a majority of them, shall think fit; and in counting the votes at all general meetings of the said company, each member shall be allowed one vote for every share as far as five shares, and one vote for every three shares above five, by him or her held at the time in said company, and any proprietor by writing under his or her hand, executed before two witnesses, may depute any other member or proprietor to vote and act as proxy for him or her at any general meeting.

Incorporation.

President and directors elected.

3. *And be it further enacted*, That the president and directors so elected, and their successors, or a majority of them assembled, shall have power and authority to agree with any person or persons on behalf of said company to cut a canal from New River Inlet in such direction through the marsh into the river, and to perform such other works as they shall judge necessary for the

Their power and duties.

cutting of said canal, and clearing the same New River from the inlet to the source of said river, or so far up as the said company may deem fit; and out of the money arising from the subscriptions and tolls, to pay for the same, and thereafter to keep the same in repair, and to defray all incidental charges; and also to appoint a treasurer, clerk and such other officers, toll-gatherers, managers and servants, as they shall judge requisite, and to agree for and settle their wages or allowances, and settle, pass and sign their accounts, and also to make and establish rules of proceeding, and transact all the other business and concerns of the said company, in and during the intervals between the general meetings of the same, and they shall be allowed as satisfaction for their trouble therein, such sum of money as shall by a general meeting of the subscribers be determined: *Provided always*, that the treasurer shall give bond in such penalty, and with such security, as the president and directors, or a majority of them, shall direct, for the true and faithful discharge of the trust reposed in him; and the allowances to be made to him shall not exceed three per cent. on the amount he may disburse, and that no officer in the said company shall have a vote in the settlement or passing of his account.

Further powers.

4. *And be it further enacted*, That the president and directors, and their successors, or a majority of them, shall have full power and authority, from time to time as money shall be wanting, to make and sign orders for that purpose, and direct at what time and in what proportions the proprietors shall advance and pay off the sums subscribed, which order shall be advertised at least one month in the public papers: and they are hereby authorised and empowered to demand and receive of the several proprietors, from time to time, the sums of money so ordered to be advanced for the carrying on and executing or repairing, and keeping in order said works, until the sums subscribed shall be fully paid, and to order the sums to be lodged in the hands of the treasurer, to be by him disbursed and laid out as the said president and directors, or a majority of them, shall order and direct; and if any of the said proprietors shall refuse or neglect to pay their said proportions, within one month after the same is so ordered and advertised as aforesaid, the said president and directors, or a majority of them, may sell at auction and

Instalments
how called for.

May sell shares
of delinquents.

convey to the purchaser the share or shares of such proprietor so refusing or neglecting payment, giving at least one month's notice of the sale in the public papers, and after retaining the sum due, and charges of sale out of the money produced thereby, they shall refund and pay the overplus, if any, to the former owners, and if such sale shall not produce the full sum ordered and directed to be advanced as aforesaid, with the incidental charges, the said president and directors, or a majority of them, may, in the name of the company, sue and recover the balance, by motion on ten days' previous notice: and the said purchaser and purchasers shall be subject to the same rules and regulations as if the said sale and conveyance had been made by the original proprietor. And to continue the succession of the said president and directors, and to keep up the same number,

5. *Be it further enacted*, That from time to time, on the expiration of the terms for which the said president and directors were appointed, the proprietors of the said company, at their next general meeting, shall either continue the said president and directors, or any of them, or shall choose others in their stead; and in case of the death, removal, resignation or incapacity of the president or any of the directors, may and shall in manner aforesaid elect any other person or persons to be president and directors, in the room of him or them so dying, removing, resigning or becoming incapable of acting.

Appointment of officers.

6. *Be it further enacted*, That every president and director, before he acts as such, shall take an oath or affirmation for the due execution of his office, and that the presence of proprietors having one hundred shares at least shall be necessary to constitute a general meeting: and that there be a general meeting of the proprietors on the second Monday in March every year, at such convenient time as shall from time to time be appointed by the said general meeting; but if a sufficient number shall not attend on that day, the proprietors who do attend may adjourn such meeting from day to day until a general meeting of the proprietors shall be had, which may be continued from day to day until the business of the company is finished, to which meeting the president and directors shall make report, and render distinct and just accounts of all their proceed-

President and directors to take an oath.

General meetings.

ings, and in finding them fairly and justly stated, the proprietors then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered on said company's books, and at such yearly meeting, after leaving in the hands of the treasurer such sums as the proprietors or a majority of them shall judge necessary for repairs and contingent charges : and equal dividend of all the nett profits arising from the tolls hereby granted, shall be ordered and made to the proprietors of said company, in proportion to their several shares ; and on any emergency in the interval between the said general meetings, the president or a majority of the directors may appoint a general meeting of the proprietors of the company, giving at least thirty days notice by public advertisement at the different public places in said county, which meeting may be adjourned and continued as aforesaid.

Fee simple in the navigation &c. granted to the company ; and exempt from taxation.

7. *And be it further enacted,* That for and in consideration of the expenses the said proprietors will be at, not only in cutting the said canal and improving said navigation, and performing all other necessary works, but maintaining and keeping the same in repair, the said canal navigation and other works, with all their profits, shall be and the same is hereby vested in the said proprietors, their heirs and assigns, forever, as tenants in common, in proportion to their respective shares, and the same shall be deemed real estate, and be exempt from the payment of any tax, imposition or assessment whatever : and it shall and may be lawful for the said president and directors, at all times hereafter, to demand and receive at some convenient place, on all commodities transported through said canal and navigation, or all vessels, boats and rafts, such toll and rates as shall be directed to be levied and exacted by the proprietors aforesaid, at their yearly general meeting : *Provided,* That the said toll or rates shall be made public by the first day of January, in each year, and a copy thereof be put up at the court-house of said county, and provided that the said toll or rates shall not exceed fifteen per centum per annum, on the capital stock expended, after deducting the allowance to officers, expenses incurred for repairs, and the incidental charges ; and in case of refusal to pay the tolls or rates at the time of passing the place aforesaid, and previously to passing the same, the collector of said tolls may law-

Rates of toll and remedy therefor.

fully refuse passage to whoever refuses payment, and if any vessel, boat or raft shall pass without paying the toll, then the said collector may seize such vessel, boat or raft, wherever found, and sell the same at auction for ready money, which, so far as is necessary, shall be applied to the paying said toll and all expenses of seizure and sale, and the balance, if any, shall be paid to the owner, and the person having direction of such vessel, boat or raft, shall be liable to such toll, if the same is not paid by the sale aforesaid.

8. *Be it further enacted*, That the said canal and navigation, completed in virtue of this act, shall forever hereafter be esteemed and taken as public highways, free for the transportation of all goods, wares, commodities or produce whatever, on payment of the tolls or rates imposed by this act directed : and whereas it is necessary, for cutting said canal and making the river navigable and other works, that a provision should be made for condemning a quantity of land for the purpose,

The canal, &c.
a public highway.

9. *Be it enacted*, That it shall and may be lawful for the president and directors, or a majority of them, to agree with the owners of any land through which the said canal is intended to pass, for the purchase thereof, and in case of disagreement, or in case the owner thereof should be a feme covert, under age, non compos, or out of the state, on application to any two justices of the county, in which the land shall be, the said justices shall issue their warrant under their hands, to the sheriff of the county, to summon a jury of eighteen men of his county, of probity and reputation, not related to the parties nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten nor more than twenty days thereafter ; and the sheriff on receiving the said warrant, shall forthwith summon the said jury, and when met, provided that not less than twelve do appear, shall administer an oath or affirmation to every jurymen that shall appear, that he will fairly, justly and impartially value the land, not exceeding fifty yards on each side of said canal, and all damages the owner thereof shall sustain, by cutting the canal through such land, according to the best of his skill and judgment ; and that in such valuation he shall not spare any person through favour or affection, nor any person grieve through malice, hatred or ill-will : and the inquisition thereon taken shall

Manner of proceeding in condemning land.

be signed by the sheriff and some twelve or more of the jury, and returned by the sheriff to the clerk's office of his county, to be by him recorded; and on every such valuation, the jury are hereby directed to describe and ascertain the bounds of the land by them valued, and their valuation shall be conclusive on all persons, and shall be paid by the president and directors to the owner of the land or his legal representatives, and on payment thereof, the said company shall be seised in fee of such lands as if conveyed by the owner to them and their successors by legal conveyance.

10. *And be it further enacted*, That all acts and clauses of acts, that come within the purview and meaning of this act, be and the same are hereby repealed and made void.

CHAP. 920.

An act concerning the navigation of Tar river.

(See 1818, c.
979.)

Commissioners
to open books
for \$75,000.

Place of meet-
ing.

1. *Be it enacted, &c.* That Edward D. MacNair, Theophilus Parker, Bennet Barrow, Spencer D. Cotton, and Joseph Bell, be and they are hereby appointed commissioners for opening books for receiving subscriptions to the amount of seventy-five thousand dollars, for improving the navigation of the Tar river, and of the several rivers and creeks which run into the same; and the said commissioners or a majority of them, shall prepare books for receiving the said subscriptions and shall open the same on or before the first day of April next, at such places and under the direction of such persons as they shall designate for that purpose: which books shall remain open until the first Monday of August next, at which time the several persons under whose direction books shall be opened as aforesaid, shall return the same to said commissioners in the town of Tarborough: and on the said first Monday of August next, there shall be a meeting of the subscribers in the town of Tarborough, and such meeting may be continued from day to day until the business be finished. If it appear to the said commissioners upon the return of said books, that the sum of thirty thousand dollars has been subscribed, the said subscribers, their heirs and assigns, from the time of the said first meeting, shall be, and they are hereby

declared to be incorporated into a company, by and under the name of "The Tar River Navigation Company," and as such may sue and be sued, plead and be impleaded, defend and be defended, have perpetual succession and a common seal: and such of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a president and five directors for conducting the said undertaking and managing all the said company's business and concerns, for and during the term of one year, and thence until the next general meeting of the stockholders: and in counting the votes at all general meetings of the said company, each member shall be allowed one vote for every share as far as ten shares, and one vote for every five shares above ten shares, by him or her holden at the time in the said company: and any proprietor, by writing under his or her hand executed before a subscribing witness, and acknowledged or proved before a justice of the peace, may depute any member to act as proxy for him or her, at any general meeting or meetings, and the presence and acts of such proxy shall be as effectual to all intents and purposes as the presence and acts of his or her principal could or might be.

Style of the corporation.

President and directors elected.

2. *Be it further enacted*, That the capital sum aforesaid shall be divided into seven hundred and fifty shares, of one hundred dollars each, and any person may subscribe for one or more whole shares, but not for part of a share. The treasurer shall subscribe on behalf of the state, on the books which shall be opened in the town of Louisburg, eighty shares; and subscriptions may be made in person or by proxy. If more than seven hundred and fifty shares shall be subscribed before the first general meeting of the subscribers in August next, the same shall be reduced to that number by the commissioners aforesaid, or a majority of them, by striking off from the said subscriptions in the manner prescribed in the first section of an act passed in the year one thousand eight hundred and twelve, entitled "An act for improving the navigation of Roanoke River from the town of Halifax to the place where the Virginia line intersects the same."

Number of shares.

Treasurer to subscribe for state.

Excess of subscriptions, how to be stricken off.

3. *Be it further enacted*, That the president and directors and their successors, or a majority of them assembled, shall have power and authority to agree with

Powers and duties of president and directors.

any person or persons on behalf of the company to open and improve the navigation of the Tar River, from its source to the town of Greenville, and also to open and improve the navigation of all streams running into the said river; and to make such improvements by canals, locks and sluices, or otherwise, from time to time and from place to place, upon such terms as they shall think fit; and out of the said capital, and money arising from tolls, pay for making and repairing all works necessary for the said navigation; and also to appoint a treasurer, not one of their own body, but yet a proprietor, clerk, toll-gatherers, and such officers, managers and servants as they shall think requisite: and also to agree for their wages, settle and pass their accounts, and at their pleasure remove all or any of them, and appoint others in their place, and also to establish rules of proceeding, and generally to transact all the business of the company in the intervals between the meetings of the same: and any general meeting of the proprietors may allow the president and directors such sum of money as the said general meeting may judge a reasonable compensation for their trouble: *Provided always*, that the treasurer shall give bond and security as the president and directors, or a majority of them, shall direct; for the true and faithful discharge of the trusts reposed in him, and that the allowance to be made to him shall not exceed one per cent. on the capital stock, and after that be disbursed, shall not exceed three dollars in the hundred for the disbursements by him made, and that no officer of the said company shall have a vote in the settlement or passing of his own accounts.

Treasurer to
give bond.

His compensa-
tion.

Certain rights
granted to the
Roanoke Com-
pany extended
to this,

4. *Be it further enacted*, That all the rights, privileges and franchises granted to the "Roanoke Navigation Company," by the fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, seventeenth and eighteenth sections of an act passed in the year one thousand eight hundred and twelve, entitled "An act for improving the navigation of Roanoke River from the town of Halifax to the place where the Virginia line intersects the same," be, and they are hereby granted to the "Tar River Navigation Company," and the said sections shall constitute and form part of the charter of the said company as applied to the Tar River, and the streams running into the same, except as hereinafter excepted.

5. *Be it further enacted*, That the rights, privileges and franchises of the "Tar River Navigation Company" shall extend from the sources of the Tar River to Greenville, and from the sources of all creeks and rivers running into the said river to their mouths, except Fishing Creek; the general meetings of the stockholders in the said company shall be holden annually in the town of Tarborough, or at such other place as the stockholders in general meeting or the president and directors shall appoint: and the president and directors shall continue in office until they shall be re-appointed, or others be appointed in their place and stead.

Rights of the company extend from the sources of river to Greenville.

Place of general meeting.

6. *Be it further enacted*, That the capital sum aforesaid may be enlarged from time to time at the discretion of the stockholders, or a majority of them, in a general meeting, should the said capital sum be insufficient to complete the navigation contemplated by the said company: and the commissioners aforesaid may, from time to time after the first Monday of June next, open books for receiving further and other subscriptions for shares, if three hundred shares be not subscribed on or before the said day.

The capital may be enlarged.

And whereas by improving the navigation of the Tar River, and the several rivers and creeks which run into the said river, the said company will become entitled to tolls at different places, but of unequal amount:

7. *Be it further enacted*, That the stockholders, or a majority of them, or the president and directors, shall have power to regulate and determine the tolls which shall be paid, and from time to time alter the said tolls: *Provided*, that the tolls shall be so fixed that the profits arising therefrom shall not in any one year exceed fifteen per cent. upon the capital stock actually paid for the purposes of the said navigation, after payment of the sums allowed annually to the officers of the said company, expenses incurred for repairs and other incidental charges; and the said tolls shall be so apportioned as to do equal and impartial justice, as near as may be, to the persons transporting commodities along the said navigation. The General Assembly may from time to time call upon the president and directors for an account of the monies actually paid for the purposes of the said navigation, and of the amount of tolls received; which account shall be rendered upon oath.

Tolls.

Toll bridges.

8. *Be it further enacted*, That the president and directors, whenever a majority of the stockholders in general meeting shall deem the same to be advisable, shall be, and they are hereby authorised out of the capital stock aforesaid, or the tolls which shall be received, to construct one or more toll bridges across the Tar River, or any of the streams which run into the said river: and for the condemnation of lands necessary for the erection of the abutments of said bridges and the erection of toll-houses, the same proceedings shall be had as are prescribed for the condemnation of lands for canals in the act aforesaid, passed in the year one thousand eight hundred and twelve.

State subscriptions not to be scaled down, &c.

9. *Be it further enacted*, That if more shares shall at any time be subscribed than the books shall be opened for, there shall be no striking off from the subscription of the state, and payments for shares subscribed for on behalf of the state shall be made by the treasurer, and the state shall stand upon the same footing with other subscribers as to the payments to be made for shares. The treasurer of this state shall represent and vote on behalf of the state in all general meetings of the stockholders, and in case of sickness or other cause which may prevent his personal attendance, he may appoint a proxy as in the case of individual subscribers.

Treasurer to represent the state.

The books evidence of sales of shares.

And whereas shares may be sold for balances due thereon: *Be it enacted*, That the books of the said company shall be good evidence of such sale and of the purchase of said shares.

Banks may subscribe for shares

10. *Be it further enacted*, That the several banks in this state, and all other bodies politic and corporate, shall be, and they are hereby authorised to subscribe for shares in the said company, and to hold and enjoy the same in the same way with other subscribers.

Time for completing navigation.

11. *Be it further enacted*, That if the said company shall fail to complete the navigation contemplated by this act within ten years from and after the first day of January next, all preference given to the said company shall cease and determine as to the stream or streams not made navigable as by this act directed.

Fishing Creek Navigation Company hereby constituted.

12. *And be it further enacted*, That this act and every clause thereof shall be, constitute and form the charter of the Fishing Creek Navigation Company; and all the rights, privileges and franchises granted by this act to the "Tar River Navigation Company," shall belong to the Fishing Creek Navigation Company.

CHAP. 921.

An act concerning the navigation of the Catawba River.

1. *Be it enacted, &c.* That all the rights, privileges and franchises granted to the Roanoke Navigation Company, by the fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, seventeenth and eighteenth sections of an act passed in the year one thousand eight hundred and twelve, entitled "An act for improving the navigation of Roanoke River, from the town of Halifax to the place where the Virginia line intersects the same," (a) be and they are hereby granted to the "North-Carolina Catawba Company," and the said sections shall constitute and form part of the charter of the said company, as applied to the Catawba River and the streams which run into the same, except as hereinafter excepted.

Certain privileges granted to Roanoke Company extended to this.

(a See 1812, c. 848.)

2. *Be it further enacted,* That the rights, privileges and franchises of "The North-Carolina Catawba Company" shall extend from the sources of the Catawba River, and of the several rivers and creeks running into the said river, to the line of South-Carolina: and the president and directors of the said company shall have power, and they are hereby authorised to engage persons to improve the navigation of the Catawba River, and its waters as aforesaid, by canals, locks and sluices, or otherwise, as may be deemed most expedient.

Rights to extend from the sources to S. Carolina line.

3. *Be it further enacted,* That the general meeting of the stockholders in the said company shall be held in the town of Charlotte, or at such other place as the stockholders or the president and directors of said company shall appoint: and the president and directors shall continue in office until others shall be appointed by the stockholders in general meeting. At any time or times after the first day of February next, books may be opened for receiving subscriptions for an increase of the capital stock of the said company; which increase of capital stock shall be divided into shares of one hundred dollars each, and the present shares holden in the said company shall, where practicable, be converted into shares of one hundred dollars each, and the president and directors shall issue new certificates of stock accordingly: The present stockholders in the said company shall deliver to the president and directors the

Place of general meeting.

Books may be opened for additional capital.

certificates of stock which they now hold, and receive other certificates in lieu thereof: and as to the present stockholders, new certificates may be issued for part of a share, but no subscription shall hereafter be received for part of a share.

Increase of
stock.

Excess of sub-
scriptions, how
stricken off.

4. *And be it further enacted*, That the capital stock of the said company may be increased from time to time, at the discretion of the stockholders, to such sum as in their opinion shall be sufficient to effect the purposes of the navigation aforesaid: and if at any time when books shall be opened for receiving subscriptions for an increase of capital stock, more shares shall be subscribed than the said books shall be opened for, the president and directors shall proceed to strike off from the said subscriptions until the same shall be reduced to the sum for which the said books shall be opened; and in striking off from the said subscriptions, they shall proceed in the manner prescribed in the first section of the act aforesaid, passed in the year one thousand eight hundred and twelve, entitled "An act for improving the navigation of Roanoke River from the town of Halifax to the place where the Virginia line intersects the same:" *Provided*, that there shall in no case be a striking off from the subscriptions of the state.

Regulations as
to opening
books.

5. *Be it further enacted*, That the president and directors shall designate the persons under whose care the books shall be opened for receiving subscriptions for an increase of capital stock, and determine how long and at what places the said books shall remain open; but the said books shall remain open at least twenty days.

The books evi-
dence of the
sale of shares.

And whereas it may become necessary to sell some of the shares of the said subscribers for balances which may be due thereon. *Be it further enacted*, That the books of said company shall be deemed good evidence of such sale, and of the purchase of said shares.

Tolls.

And whereas by improving the navigation of the Catawba River, and the various streams which run into said river, the said company will become entitled to tolls at different places, but of unequal amount: *Be it enacted*, That the stockholders in a general meeting, or the president and directors, shall have power to regulate and determine the tolls which shall be paid, and from time to time alter the said tolls: *Provided*, that the said tolls shall be so fixed that the profits arising

from and after the first day of May last passed, instead of one lieutenant-colonel commandant to each regiment and one Major to each battalion, there shall be one colonel, one lieutenant-colonel and one major, to each regiment of militia consisting of two battalions, and where there shall be only one battalion it shall be commanded by a major:

1. *Be it therefore enacted, &c.* That his excellency the governor be and he is hereby authorised and requested to cause the commission of colonel to issue to each lieutenant-colonel commandant, and the commission of lieutenant-colonel to each first major, and the commission of major to each second major, in the several regiments of militia, consisting of two battalions: *Provided always.* That each county shall be considered as containing at least one regiment.

Alterations of grade.

2. *And be it further enacted.* That in future all appointments made by this General Assembly of field officers of militia, shall be in conformity to the provisions contained in the act of Congress aforesaid.

Appointment of field officers to be according to act of Congress.

3. *And be it further enacted,* That the division inspector, and division quarter-master, as required by acts of Congress of April eighteenth, eighteen hundred and fourteen, shall be appointed by the major-generals of divisions, and commissioned by the governor.

Division inspector and quarter master how appointed.

CHAP. 925.

An act to enable guardians to recover compound interest in certain cases.

Whereas the supreme court having decided that guardians in certain cases shall be subject to pay to their wards compound interest, and it being always difficult and often impracticable for them to get notes renewed annually, so as to enable them to receive compound interest: For remedy whereof,

Be it enacted, &c. That from and after the passing of this act, all guardians shall be entitled to recover compound interest on all notes, bonds or obligations given or made payable to him, her or them, in the capacity of guardian, in the same manner as if said notes, bonds or obligations had been renewed annually: any law, usage or custom to the contrary notwithstanding.

Guardians shall recover compound interest.

CHAP. 926.

(See 1813, c. 856.)

Time allowed until 1st January, 1818.

An act to extend the time for the several surveyors in this state to complete their returns upon entries made and paid for since the year one thousand seven hundred and ninety-six.

Be it enacted, &c. That the several surveyors in this state shall have until the first day of January, one thousand eight hundred and eighteen, to complete their surveys upon entries actually made and paid for since the year one thousand seven hundred and ninety-six, any law to the contrary notwithstanding: *Provided*, That no grant to be obtained on any survey to be made under this act, shall affect or impair the title of any lands heretofore bona fide acquired by grants from this state.

CHAP. 927.

(a See 1810, c. 791.)

An act to amend an act passed in the year one thousand eight hundred and ten, entitled, "An act to amend an act, entitled, An additional act to an act entitled, Feme coverts how to pass lands." (a)

Whereas by the said first recited act, provision is made for taking the examination of feme coverts, as to their execution of conveyances of lands in this state, in any of the United States other than this state, or in any of the territories of the United States, omitting the district of Columbia:

Extended to the district of Columbia.

1. *Be it therefore enacted, &c.* That the provisions of the said recited act for taking the examination of feme coverts in the several states and territories of the United States, touching the conveyances of lands in this state, be and the same are hereby extended to the district of Columbia: and that the same modes be there observed for taking and certifying such examinations as are required to be observed in the states and territories, except that instead of the certificate and authentication of the governor, the certificate and authentication of the secretary of state of the United States shall be required. And all examinations of feme coverts so taken and certified in said district, shall be as valid to all intents and purposes as if taken and certified according to the said recited act, in one of the states or territories.

2. *And be it further enacted*, That this act be in force from and after the passing of the same.

therefrom shall not exceed fifteen per cent. per year, upon the capital stock actually paid for the purposes of the said navigation, after payment of the sums allowed annually to the officers of the said company, expenses incurred for repairs and other incidental charges: and the General Assembly may from time to time call upon the president and directors of the said company for an account of the capital stock actually paid as aforesaid, and of the tolls received, which account shall be rendered on oath. The president and directors of the said company, whenever a majority of the stockholders in general meeting shall deem the same to be advisable, shall be, and they are hereby authorised, out of the capital stock aforesaid, or the tolls which shall be received, to construct one or more toll bridges across the Cayuga River, or any of the streams which run into the same; and for the condemnation of lands necessary for the erection of the abutments of said bridges, and the erection of toll-houses, the same proceedings shall be had as are prescribed for the condemnation of lands for canals in and by the act aforesaid, passed in the year one thousand eight hundred and twelve.

Toll bridges

6. *Be it further enacted*, That the treasurer shall subscribe on the books of the said company, when the same shall be opened for receiving subscriptions for an increase of the capital stock, sixty shares on behalf of the state, and the state shall be upon the same footing with other subscribers, as to payments to be made for shares: and the state may appoint a director of the said company at any time when the General Assembly shall think proper, who shall hold such appointment until the next General Assembly thereafter, and no longer, unless re-appointed. The treasurer, either personally or by proxy, shall represent the state in the meetings of the stockholders: the several banks in this state, and all other bodies politic and corporate, shall be, and they are hereby authorised to subscribe for shares in the said company, and to hold and enjoy the same in the same way as other subscribers.

State subscription.

Banks, &c. may subscribe for shares.

7. *Be it further enacted*, That if the said company shall not complete the navigation so as to admit the safe passage of boats through the same, within ten years after the first day of January next, all preference in favour of the said company shall be forfeited as to the stream or streams not made navigable.

Time for completing navigation.

Acceptance of
this act.

8. *Be it further enacted.* That the stockholders in the "North-Carolina Catawba Company," shall make known to the governor on or before the first day of March next, their acceptance or rejection of this amended charter: and if they fail to make known their acceptance or rejection by the said day, such failure shall be held, deemed and taken, to all intents and purposes, to be an acceptance thereof: and all acts and clauses of acts which come within the meaning and purview of this act, be and the same are hereby repealed and made void.

CHAP. 922.

(a See 1785, c.
241.)

An act to amend an act, entitled "An act to prevent persons from stopping or obstructing ways leading to houses of public worship," passed in the year seventeen hundred and eighty-five.(a)

Penalties how
recoverable.

Be it enacted, &c. That the penalties which may hereafter be incurred under the above recited act, shall and may be sued for and recovered before any justice, within whose county the same may happen, or by indictment, any law to the contrary notwithstanding.

CHAP. 923.

(b See 1792, c.
365.)

An act to amend an act, entitled "An act to amend the several processioning laws now in force in this state," passed in the year seventeen hundred and ninety-two.(b)

Processioners'
fees.

1. *Be it enacted, &c.* That the several processioners which are or may be appointed in this state, shall be entitled to receive the same fees and emoluments which are allowed by law to county surveyors.(c)

(c See 1786, c.
252.)

Processioners to
administer oath.

2. *And be it further enacted,* That the oath directed to be taken by the jury or commissioners appointed under the act aforesaid, may be administered by the processioner.

CHAP. 924.

(d See 1806, c.
708, and the re-
ferences there
made.)

An act concerning field officers of the Militia.(d)

Whereas by an act of Congress, passed the twentieth April, eighteen hundred and sixteen, it is provided that

said meeting, and the shares subscribed for on behalf of the state shall be paid for in like manner as shares subscribed for by individuals.

And whereas, in consequence of the doubts aforesaid, some of the said subscribers have not paid ten dollars upon each share by him, her or them subscribed, as directed by the before recited act: *Be it further enacted*, That ten dollars upon each share subscribed as aforesaid, shall be paid to the treasurer of the said company on or before the first day of January next, otherwise the president and directors of the said company may proceed to enforce such payments by legal process, or declare such share or shares forfeited as they may prefer, and each subscriber making such payment, shall be held, deemed and taken a stockholder in the said company, and shall make payment of the balances due on the shares by him, her or them holden, as the president and directors of the company shall order and direct; and in case of failure to make such payment, shall be liable to the forfeitures imposed by the before recited act, and may be proceeded against in the way therein pointed out.

Provision for
payment of
shares.

And whereas under an act passed in the year one thousand eight hundred and twelve, entitled "An act for improving the navigation of Roanoke River from the town of Halifax to the place where the Virginia line intersects the same," books were opened for the purpose of receiving subscriptions to the amount of one hundred thousand dollars, and subscriptions to a considerable amount were made upon the said books; and many of the said subscribers are desirous that the sums so subscribed by them should be applied to the purpose of improving the navigation of the Roanoke river: *Be it further enacted*, that the said subscribers shall, on or before the first day of January next, make known to the president and directors aforesaid, the number of shares by them subscribed and by them wished to be retained; and shall on or before the said day pay to the treasurer of the said company ten dollars upon each share by him, her or them subscribed, and wished to be retained as aforesaid; and thereupon the said president and directors shall cause his, her or their names to be enrolled in the list of stockholders in said company, and he, she or they shall be held, deemed and taken as a stockholder or stockholders in said company, and liable according-

Former subscribers retained & enrolled in this company.

ly, to every intent and purpose; and all subscribers under the said act, failing to make known the number of shares by them subscribed and wished to be retained by them as aforesaid, on or before the said day, shall be held and taken to have relinquished all right under their said subscriptions, and their said subscriptions are in that case declared to be void.

Place of meet-
ing.

2. *And be it further enacted*, That the annual meetings of the stockholders in the "Ranoke Navigation Company" shall hereafter be held in the town of Halifax, in this state, or at such place as the president and directors shall appoint, on the fourth Monday of October in each and every year, and in case the said stockholders, or a majority of them, shall fail to meet in the town of Halifax, or at such place as the president and directors may appoint on the day aforesaid, the president and directors elected for the preceding year shall continue in office until a meeting of the stockholders can be had.

Dividends on
actual capital
only, &c.

And whereas doubts are entertained as to the dividends which the said company shall be entitled to receive: *Be it further enacted*, That the said company shall be entitled to receive dividends only upon so much of their capital stock as the stockholders shall actually pay for the purposes of the said navigation; and the General Assembly may from time to time call upon the president and directors for a statement of the capital stock actually paid by the stockholders as aforesaid, and of the amount of tolls received, which statement shall be rendered on oath.

Charter amend-
ed, viz.—The
power to hold
real estate is li-
mited to
£50,000 over
and above &c.—

3. *And be it further enacted*, That the articles following shall be, and make part of the charter of the aforesaid company, and all parts of the before mentioned acts of one thousand eight hundred and twelve and one thousand eight hundred and fifteen, inconsistent with the said articles, shall be hereby repealed. *First*. The power of purchasing and holding real estate granted to the said company, by the said act of one thousand eight hundred and twelve, shall not extend to the purchasing or holding of real estate to a greater amount than fifty thousand dollars over and above that which may be necessary for carrying on the works of said company and making and constructing the turnpike road contemplated in the seventh section of the said recited act. *Second*. That if the said company shall not open and com-

CHAP. 928.

An act to amend an act passed in the year one thousand eight hundred and fourteen, entitled "An act concerning divorce and alimony."^(a)

(a See 1814, c. 869, 1819, c. 1007.)

Whereas by the before recited act, the sentence or decree which the court is authorised to pronounce in the case of desertion of a wife by her husband, is a divorce from bed and board, and a decree of alimony: And whereas cases of great hardship often occur, the husband being at liberty to return and squander away the estate of the wife, subsequently obtained: For remedy whereof,

Be it enacted, &c. That in all future cases arising under the before recited act, whenever the court pronounces a decree of separation from bed and board, the effect of said decree shall be to secure to the wife so divorced, any property which she may subsequently obtain either by her own labour, gift, devise or operation of law, unless the court shall in their judgment otherwise order and decree; any law, usage or custom to the contrary notwithstanding.

The consequence of a decree of separation.

CHAP. 929.

An act declaring valid the proceedings of the subscribers for improving the navigation of the river Roanoke and its waters, at a general meeting held in the town of Halifax, in this state, on the fourth Monday of October, A. D. one thousand eight hundred and sixteen, and for other purposes.^(b)

(b See 1812, c. 843, 1817, c. 959.)

Whereas an act passed at the last General Assembly, entitled "An act to improve the inland navigation of this state, so far as respects the river Roanoke and its waters," directed that books should be opened at a certain time, and at certain places, under the direction of certain persons named in the said act, for the purpose of receiving subscriptions to the amount of three hundred thousand dollars for improving the navigation of the river Roanoke and its waters; and whereas many of the persons so named failed to make returns of their books to the general meeting of the subscribers, held in the town of Halifax, in this state, on the fourth Monday of June last past, so that the acting managers could not then determine whether fifteen hundred shares had then been subscribed, and the subscribers then present conti-

Preamble.

nued their meeting by adjournment until the fourth Monday of October last past, at which time there being a general meeting of the said subscribers, held in the town of Halifax aforesaid, it appeared that fifteen hundred shares had been subscribed of the capital stock required for improving the navigation contemplated by the said act: Whereupon the said subscribers did proceed to organize "The Roanoke Navigation Company," and to appoint the president and directors thereof: And whereas doubts are entertained whether the said company has been legally organized, and the said officers legally appointed, for the purpose of removing said doubts and giving effect to the proceedings of the said subscribers, and to the spirit and meaning of the act aforesaid,

Proceedings at
Halifax sanc-
tioned.

1. *Be it enacted, &c.* That the proceedings of the subscribers for improving the navigation of the river Roanoke and its waters, at their general meeting held at the town of Halifax, in this state, on the fourth Monday of October last past, be and they are hereby declared to be legal and valid to every intent and purpose: and "the Roanoke Navigation Company," then and there organized and constituted, under the act passed at the last General Assembly, entitled, "an act to improve the inland navigation of this state, so far as respects the river Roanoke and its waters," is hereby declared to be legally organized and constituted under the said act; and the said company, so organized and constituted, shall have and be entitled to the rights, privileges and immunities by the said act granted, and be subject to the restrictions imposed by the same, and may forthwith proceed to improve the navigation of the river Roanoke and its waters, according to the intent and meaning of the said act; and the officers of the said company then and there appointed, are hereby declared to be legally appointed under the said act, and they shall continue in office until the next general meeting of the stockholders, to be held in the town of Halifax aforesaid, on the fourth Monday of October next, and all subscriptions for shares, made upon the books mentioned in the preamble to this act, shall be binding upon the subscribers, in like manner as if the said books had been returned to the general meeting of the subscribers at Halifax aforesaid, on the fourth Monday of June last past, and in like manner as if it had then appeared that fifteen hundred shares had been subscribed before the

plate the navigation of the said river and the tributary streams thereof, for the safe passage of boats within twenty years from and after the first day of January, one thousand eight hundred and eighteen, then all preference in favor of the said company in the navigation of the said river and streams respectively, so not improved, shall cease and be forfeited. *Third.* The General Assembly may from time to time regulate and restrain the rates and tables of toll established by the said stockholders, if the said rates and tables shall in the opinion of the said General Assembly be more than sufficient to make the nett profit of fifteen per centum on the stock, as provided in the before mentioned acts. *Fourth.* And the company and stockholders aforesaid, shall within four calendar months after the adjournment of this General Assembly, notify his excellency the governor, of their acceptance or refusal of their charter, as by this act amended, and if said company and stockholders shall fail to give such notification, such failure shall be construed an acceptance of the same, and in case the said company shall refuse to accept the amendments as aforesaid to their charter, then this act and every part thereof shall be of no effect or virtue whatever, but shall be absolutely void.

4. *And be it further enacted.* That this act shall be in full force immediately from and after the ratification thereof, any thing to the contrary notwithstanding.

Navigation to be completed within twenty years from Jan. 1818.

General Assembly may restrain and limit the tolls, if more than 15 per cent.

Notice to be given of acceptance of this act.

CHAP. 930.

An act concerning the navigation of the Yadkin river.

1. *Be it enacted, &c.* That Francis Locke, Lewis Beard, Alexander Long, Jesse A. Pearson and Jesse Hargrove, all of Rowan county, be and they are hereby appointed commissioners for opening books for receiving subscriptions to the amount of two hundred and fifty thousand dollars, for improving the navigation of the Yadkin river, and of the several rivers and creeks which run into the same; and the said commissioners or a majority of them, shall prepare books for receiving the said subscriptions and shall open the same on or before the first day of April next, at such places and under the directions of such persons as they shall designate for that purpose: which books shall

Commissioners.

Opening of books.

remain open until the first Monday of June next, at which time the several persons under whose direction books shall be opened as aforesaid, shall return the same to the said commissioners in the town of Salisbury: and on the said first Monday of June next, there shall be a meeting of the subscribers in the town of Salisbury, and such meeting may be continued from day to day until the business be finished. If it appear to the said commissioners upon the return of said books, that the sum of one hundred thousand dollars has been subscribed, the said subscribers, their heirs and assigns, from the time of the said first meeting, shall be, and they are hereby declared to be incorporated into a company, by and under the name of "The Yadkin Navigation Company," and as such may sue and be sued, plead and be impleaded, defend and be defended, have perpetual succession and a common seal: and such of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a president and seven directors for conducting the said undertaking and managing all the said company's business and concerns, for and during the term of one year, and thence until the next general meeting of the stockholders: and in counting the votes at all general meetings of the said company, each member shall be allowed one vote for every share as far as ten shares, and one vote for every five shares above ten, by him or her held at the time in the said company: and any proprietor, by writing under his or her hand, executed before a subscribing witness, and acknowledged or proved before a justice of the peace, may depute any member to act as proxy for him or her, at any general meeting or meetings, and the presence and acts of such proxy shall be as effectual to all intents and purposes as the presence or acts of his or her principal could or might be.

2. *Be it further enacted*, That the capital sum aforesaid shall be divided into two thousand five hundred shares of one hundred dollars each, and any person may subscribe for one or more whole shares, but not for part of a share. The treasurer shall subscribe on behalf of the state, on the books which shall be opened in the town of Salisbury, two hundred and fifty shares; and subscriptions may be made in person or by proxy. If more than two thousand five hundred shares shall be subscribed before the first general meeting of the subscri-

Style of the corporation.

Appointment of officers.

State subscription.

bers in June next, the same shall be reduced to that number by the commissioners aforesaid, or a majority of them, by striking off from the said subscriptions in the manner prescribed in the first section of an act passed in the year one thousand eight hundred and twelve, entitled "An act for improving the navigation of Roanoke river from the town of Halifax to the place where the Virginia line intersects the same."

3. *Be it further enacted*, That the president and directors and their successors, or a majority of them assembled, shall have power and authority to agree with any person or persons on behalf of the company to open and improve the navigation of the Yadkin river, from its source to the line of South-Carolina, and also to open and improve the navigation of all streams in this state running into the said river; and to make such improvements by canals, locks and sluices, or otherwise, from time to time and from place to place, upon such terms as they shall think fit; and out of the said capital, and money arising from tolls, pay for making and repairing all works necessary for the said navigation; and also to appoint a treasurer, not one of their own body, but yet a proprietor, clerk, toll-gatherers, and such officers, managers and servants as they shall think requisite: and also to agree for their wages, settle and pass their accounts, and at their pleasure remove all or any of them, and appoint others in their place, and also to establish rules of proceeding, and generally to transact all the business of the company in the intervals between the meetings of the same: and any general meeting of the proprietors may allow the president and directors such sum of money as the said general meeting may judge a reasonable compensation for their trouble: *Provided always*, that the treasurer shall give bond and security as the president and directors, or a majority of them, shall direct: for the true and faithful discharge of the trusts reposed in him, and that the allowance to be made to him shall not exceed three dollars in the hundred for the disbursements by him made, and that no officer of the said company shall have a vote in the settlement or passing of his own accounts.

Powers and duties of president and directors.

Treasurer shall give bond.

4. *Be it further enacted*, That all the rights, privileges and franchises granted to the "Roanoke Navigation Company," by the fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, four-

Privileges of the Roanoke Company granted to this.

(a See 1812, c. 848.)

Rights to extend from the sources to the S. Carolina line.

Place of general meeting.

Capital may be enlarged.

Regulation of Tolls.

teenth, fifteenth, seventeenth and eighteenth sections of an act passed in the year one thousand eight hundred and twelve, entitled "An act for improving the navigation of Roanoke River from the town of Halifax to the place where the Virginia line intersects the same," (a) be, and they are hereby granted to the "Yadkin Navigation Company," and the said sections shall constitute and form part of the charter of the said company as applied to the Yadkin River, and the streams which run into the same, except as hereinafter excepted.

5. *Be it further enacted.* That the rights, privileges and franchises of the "Yadkin Navigation Company" shall extend from the sources of the Yadkin River, to the line of South-Carolina, and from the sources to their mouths or to the said line of South-Carolina, of all the rivers and creeks running into the said river, except Lumber river and its branches. The general meetings of the stockholders in the said company shall be holden annually in the town of Salisbury, or at such other place as the stockholders in general meeting or the president and directors shall appoint, and the president and directors shall continue in office until they shall be re-appointed, or others be appointed in their place and stead.

6. *Be it further enacted.* That the capital sum aforesaid may be enlarged from time to time at the discretion of the stockholders, or a majority of them, in a general meeting, should the said capital sum be insufficient to complete the navigation contemplated by the said company; and the commissioners aforesaid, may from time to time after the first Monday of June next, open books for receiving further and other subscription for shares, if one thousand shares shall not be subscribed on or before the said day.

And whereas by improving the navigation of the Yadkin River and the several rivers and creeks which run into the said river, the said company will become entitled to tolls at different places, but of unequal amount:

7. *Be it further enacted,* That the stockholders, or a majority of them, or the president and directors, shall have power to regulate and determine the tolls which shall be paid, and from time to time alter the said tolls: *Provided,* that the tolls shall be so fixed that the profits arising therefrom shall not in any one year exceed fifteen per cent. upon the capital stock actually paid for

the purposes of the said navigation, after payment of the sums allowed annually to the officers of the said company, expenses incurred for repairs and other incidental charges; and the said tolls shall be so apportioned as to do equal and impartial justice, as near as may be, to all persons transporting commodities along the said navigation. The General Assembly may from time to time call upon the president and directors for an account of the monies actually paid for the purposes of the said navigation, and of the amount of tolls received; which account shall be rendered upon oath.

8. *Be it further enacted*, That the president and directors, whenever a majority of the stockholders in general meeting shall deem the same to be advisable, shall be, and they are hereby authorised out of the capital stock aforesaid, or the tolls which shall be received, to construct one or more toll-bridges across the Yadkin River, or any of the streams which run into the said river: and for the condemnation of lands necessary for the erection of the abutments of said bridges and the erection of toll-houses, the same proceedings shall be had as are prescribed for the condemnation of lands for canals in the act aforesaid, passed in the year one thousand eight hundred and twelve.

Toll-bridges.

9. *Be it further enacted*, That the president and directors of the said company, shall be, and they are hereby authorised to make or construct a turnpike road round the narrows and falls of the Yadkin river, if they shall deem the same to be advisable, until the navigation of the said river can be improved at the said places by means of canals, locks and sluices, and to ask and receive the same tolls for commodities transported along the said turnpike road as they would be entitled to, were the navigation improved for the transportation thereof in boats.

Turnpike road.

10. *Be it further enacted*, That if more shares shall at any time be subscribed than the books shall be opened for, there shall be no striking off from the subscription of the state, and payments for shares subscribed for on behalf of the state shall be made by the treasurer, and the state shall stand upon the same footing with other subscribers as to the payments to be made for shares. The treasurer of this state shall represent the vote on behalf of the state in all general meetings of the stockholders, and in case of sickness or other cause

Treasurer to represent the state, &c.

which may prevent his personal attendance, he may appoint a proxy as in the case of individual subscribers.

And whereas shares may be sold for balances due thereon:

Books evidence
of sale of shares.

11. *Be it enacted*, That the books of the said company shall be good evidence of such sale and of the purchase of said shares.

Banks may sub-
scribe.

12. *Be it further enacted*, That the several banks in this state, and all other bodies politic and corporate, shall be, and they are hereby authorised to subscribe for shares in the said company, and to hold and enjoy the same in the same way with other subscribers, and if the said company shall fail to complete the navigation contemplated by this act within twenty years from and after the first day of January next, all preference given to the said company shall cease and determine as to the stream or streams not made navigable as by this act directed.

CHAP. 931.

Amended by
1818, c. 988.

An act for opening a communication between the Yadkin and Cape-Fear rivers.

Commissioners.

1. *Be it enacted, &c.* That Alexander Rowland, Charles Moore, John Gilchrist, James Stuart and James M'Queen, be, and they are hereby appointed commissioners for receiving subscriptions to the amount of two hundred thousand dollars for the purpose of opening a communication by canals between the Yadkin and the Cape-Fear rivers; and the said commissioners or a majority of them shall prepare books, and cause the same to be opened at such places and under the direction of such persons as they may appoint, and the said books shall be opened on or before the first day of April next, and continue open until the first day of July next, at which time the said books shall be returned to the said commissioners in the town of Lumberton, in Robeson county, and at the same time there shall be a general meeting of the subscribers in the said town, either personally or by proxy, and such meeting may be continued from day to day until the business be finished; and if it shall appear that one thousand shares or more of the said capital sum have been subscribed, the said

Place of meet-
ing.

subscribers, their heirs and assigns from the time of the said first meeting, shall be, and they are hereby declared to be incorporated into a company, by and under the name of "the Lumber River Canal Company," and may sue and be sued as such, plead and be impleaded, defend and be defended, have perpetual succession and a common seal; and such of the said subscribers as shall be present at the said meeting or a majority of them, are hereby empowered and required to elect a president and four directors for conducting the said undertaking, and managing all the said company's business and concerns, for and during the term of one year, and thence until the next general meeting of the stockholders; and in counting the votes of all general meetings of the said company, each member shall be allowed one vote for every share as far as ten shares, and one vote for every five shares above ten by him or her held at the time in the said company; and any proprietor by writing under his or her hand, executed before two subscribing witnesses, and acknowledged or proved before a justice of the peace, may depute any member to act as proxy for him or her at any general meeting or meetings, and the presence and acts of such proxy shall be as effectual to all intents and purposes as the presence or acts of his or her principal could or might be.

Style of corporation.

Proxies.

2. *Be it further enacted*, That if one thousand shares shall not have been subscribed at or before the said first general meeting of the stockholders, the said commissioners shall again open books for receiving further subscriptions at such time or times, and at such places and under the direction of such persons as they shall appoint; and shall give notice in some newspaper printed in the city of Raleigh, or the town of Fayetteville, of the day on which said books shall be returned, and when the said number of one thousand shares shall be subscribed, the stockholders in general meeting shall proceed to elect the president and directors of the said company as aforesaid, and if more than two thousand shares shall be subscribed the said commissioners shall strike off from the said subscriptions until the number be reduced to two thousand; and in striking off the said commissioners shall proceed in the manner prescribed in the first section of an act passed in the year one thousand eight hundred and twelve, entitled "an act for improving the navigation of Roanoke river from

Books may be again opened.

Provision for striking off.

the town of Halifax to the place where the Virginia line intersects the same," but neither upon the first nor upon any subsequent subscription shall there be any striking off from the subscription of the state.

State subscrip-
tion.

3. *Be it further enacted*, That the capital sum aforesaid, shall be divided into shares of one hundred dollars each; any person may subscribe for one or more shares but not for part of a share: the treasurer shall subscribe in behalf of the state on the books which shall be opened in the town of Fayetteville, two hundred shares. The capital sum aforesaid may be enlarged from time to time, at the discretion of the stockholders, or a majority of them, in general meeting, should the said capital sum be insufficient to complete the navigation contemplated by this act: and the president and directors may open books from time to time to receive subscriptions to increase the capital stock, although the same be less than two hundred thousand dollars.

Power and duty
of president and
directors.

4. *Be it further enacted*, That the president and directors, and their successors, or a majority of them assembled, shall have power and authority to open a communication by one or more navigable canals, between the Yadkin and Cape-Fear rivers, along such route as they shall mark out and determine, and to employ or agree with any person or persons on behalf of the company, to open and improve the said communication by canals, locks and sluices, or otherwise, upon such terms as they shall think fit: and out of the said capital and money arising from tolls, pay for making and repairing all works necessary for the said navigation, and also to appoint a treasurer, not one of their own body, but yet a proprietor, clerk, toll-gatherers, and such officers, managers and servants as they shall think requisite, and also to agree for their wages, settle and pass their accounts, and at their pleasure remove all or any of them, and appoint others in their place, and also to establish rules of proceeding, and generally to transact all the business of the company in the intervals between the meetings of the same: and any general meeting of the proprietors may allow the president and directors such sum of money as the said general meeting may judge a reasonable compensation for their trouble: *Provided always*, that the treasurer shall give bond and security, as the president and directors, or a majority of them, shall direct, for the true and faithful discharge of the trust reposed in him,

and that the allowance to be made to him shall not exceed three dollars in the hundred for the disbursements by him made, and that no officer of the said company shall have a vote in the settlement or passing of his own accounts.

5. *Be it farther enacted*, That the said canals shall, where practicable, be made thirty feet wide at top, and twenty feet wide at bottom, and to contain, if practicable, along the same, a depth of water of three feet or more, and the locks and sluices shall be at least fourteen feet wide. Depth of canal.

6. *Be it further enacted*, That all the rights, privileges and franchises granted to the "Roanoke Navigation Company," by the fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, seventeenth and eighteenth sections of an act passed in the year one thousand eight hundred and twelve, entitled "An act for improving the navigation of Roanoke River from the town of Halifax to the place where the Virginia line intersects the same," (a) be, and they are hereby granted to the "Lumber River Canal Company," and the said sections shall constitute and form part of the charter of the said company as applied to the communication by canals contemplated by this act. Privileges the same as granted to the Roanoke Company.
(a See 1812, c. 848.)

7. *Be it further enacted*, That the rights, privileges and franchises of the "Lumber River Canal Company" shall extend from the Yadkin river to the Cape-Fear river, along the route which the president and directors shall mark out and determine for the canal aforesaid, and also from the source of the Lumber river to the mouth of the swamp. The general meetings of the stockholders in the said company shall annually be holden in the town of Lumberton aforesaid, or at such other place as the stockholders in general meeting or the president and directors shall appoint, and the president and directors shall continue in office until they shall be re-appointed, or others be appointed in their place and stead. Rights to extend from Yadkin to Cape-Fear.

8. *Be it further enacted*, That the president and directors, whenever a majority of the stockholders in general meeting shall deem the same to be advisable, shall be, and they are hereby authorised out of the capital stock aforesaid, or the tolls which shall be received, to construct one or more toll-bridges across the Lumber ri- Toll-bridges.

ver; and for the condemnation of lands necessary for the abutments of said bridges and the erection of toll-houses, the same proceedings shall be had as are prescribed for the condemnation of lands for canals in the act aforesaid, passed in the year one thousand eight hundred and twelve.

Regulation of
Tolls.

And whereas by opening the aforesaid communication the said company will become entitled to tolls at different places, but of unequal amount: *Be it further enacted*, That the stockholders, or a majority of them, or the president and directors, shall have power to regulate and determine the tolls which shall be paid, and from time to time alter the said tolls: *Provided*, that the tolls shall be so fixed that the profits arising therefrom shall not in any one year exceed fifteen per cent. upon the capital stock actually expended for the purposes of the said navigation, after payment of the sums allowed annually to the officers of the said company, expenses incurred for repairs and other incidental charges; and the said tolls shall be so regulated as to do equal and impartial justice, as near as may be, to all persons transporting commodities along the said navigation. The General Assembly may from time to time call upon the president and directors for an account of the monies actually paid for the purposes of the said navigation, and of the amount of tolls received; which account shall be rendered upon oath.

Treasurer to re-
present the
state.

9. *Be it further enacted*, That the treasurer of this state shall represent and vote on behalf of the state in all general meetings of the stockholders, and in case of sickness or other cause which may prevent his personal attendance, he may appoint a proxy as in the case of individual subscribers: payments for shares subscribed for on behalf of the state shall be made by the treasurer, and the state shall stand upon the same footing with other subscribers as to the payments to be made for shares.

Books evidence
of sale of shares.

And whereas shares may be sold by the president and directors of the said company, for balances due thereon: *Be it enacted*, That the books of the said company shall be good evidence of such sale and of the purchase of said shares.

Banks may sub-
scribe.

10. *Be it further enacted*, That the several banks in this state, and all other bodies politic and corporate, shall be, and they are hereby authorised to subscribe

for shares in the said company, and to hold and enjoy the same in the same way with other subscribers.

11. *Be it further enacted*, That the rights of the said company to levy tolls, shall commence when they shall have opened a communication by canals between the Cape-Fear and the Lumber river, and to complete this part of their work, a period of ten years is allowed to the said company; and a further period of ten years is allowed to the said company to open the communication contemplated by this act between the Lumber river and the Yadkin river, and if the said company shall fail to complete the work aforesaid between the Cape-Fear and the Lumber river within ten years after the first day of January next, all the rights, privileges and franchises granted to the said company shall cease and determine; and if they shall fail to complete the work aforesaid between the Lumber river and the Yadkin river, within twenty years after the first day of January next, all the said rights, privileges and franchises, shall cease and determine, as to so much of the communication contemplated by this act, as lies between the Lumber river and the Yadkin river.

Time allowed
for completing
canal.

CHAP. 932.

An act for removing logs, shoals and other impediments in the Tar river, below the town of Washington, in the county of Beaufort, and for other purposes. (a) (a Sec 1818, c. 977.)

Whereas logs, shoals and other impediments have accumulated below the town of Washington, in the county of Beaufort, from annual freshes in the river and otherwise, whereby the navigation to and from the said town is injured.

1. *Be it enacted, &c.* That the collector of the customs of the United States for the port of Washington, in the county of Beaufort, be and he is hereby authorised and required to collect and receive from the master, owner or agent of any and every vessel arriving at and departing from the said port, drawing when fully loaded, more than seven feet water, the sum of twenty cents per inch for each and every inch of the draft of water over seven feet when fully loaded as aforesaid, of each vessel at the time of her arrival at and departure from the

Tax on vessels.

Masters of ves-
sels to take an
oath.

(This section re-
pealed by 1818,
c. 977, s. 2.)

Surveyor to be
employed.

Tax on vessels,
&c. appropri-
ated.

said port; and it shall be the duty of the master or commander of every vessel arriving at, or departing from the said port, both on his arrival and departure, to declare on oath at the office of the said collector, the draft of water of the vessel so commanded or navigated by him; the form of which oath shall be as follows: I, A. B. master or commander of the _____ or vessel called the _____ of _____ do solemnly swear, that the draft of water of said vessel when fully laden is _____ feet _____ inches, so help me God; and if the master or commander of any vessel so arriving at or departing from the said port, shall refuse or neglect to comply with the provisions of this act, he shall incur a penalty of one hundred dollars, to be recovered with costs of suit by said collector of the customs in any court of this state, which said penalty when recovered, shall be paid one half to the person giving information of said neglect or refusal, and the other half shall be applied to uses and purposes hereinafter provided for.

2. *Be it further enacted*, That the commissioners of navigation of the port of Washington, be, and they are hereby authorised and required to employ one or more discreet and skilful persons, to explore, examine and survey that part of Tar river and the channel thereof which extends from the town of Washington to Hill's point, and to ascertain the obstructions to the navigation thereof arising from logs, stumps, shoals or any other matter or thing collected or deposited in or near the said channel, and how far it may be practicable to clear out and remove the same and the probable expense thereof; and the said person or persons be required to make correct draughts or plots of the said survey, and report in writing of their proceedings and of the state of said river, to the said commissioners of navigation, who shall thereupon engage some discreet and skilful person or persons to remove or cause to be removed such logs, stumps, shoals and other obstructions as may appear necessary to be removed.

3. *Be it further enacted*, That the tax or toll laid in the first section of this act, and one half the penalties recovered under the same, be, and the same is hereby appropriated exclusively to the performance of the above work, and to the payment of the expenses thereof, and for that purpose the same is hereby invested in the said commissioners of navigation and their successors in of-

fee, to be by them applied as herein directed, and the said collector of the customs for the said port of Washington, is hereby authorised and required to pay the proceeds thereof to the said commissioners or their order, deducting and retaining for his, the said collector's services and expenses in collecting, receiving and paying over the same, three per centum on the amount so paid over by him.

4. *Be it further enacted*, That the commissioners of navigation aforesaid, shall be entitled to retain out of the monies so invested in them 2 1-2 per centum for their services on the amount by them expended and paid away for the accomplishment of the objects contemplated by this act, and the said commissioners of navigation for the said port are hereby required to cause correct accounts to be kept of their receipts and expenditures under this act, and report thereof in writing, with the progress made in effecting the objects herein contemplated, to be made annually to the county court of Beaufort aforesaid, and copies of the said report, and accounts to be by them transmitted to the general commissioners of navigation appointed by the state.

5. *Be it further enacted*, That as soon as the channel of that part of Tar river aforesaid shall be fully cleared, and the logs, stumps, shoals and other obstructions removed therefrom, as far as the same may be practicable in the opinion of the said commissioners of navigation for the said port, they shall give notice thereof to the collector of the customs of the United States at Washington aforesaid, and the tax or toll laid in the first section of this act, shall thenceforward cease and determine: *Provided always*, that whenever the said channel, or that part of the river or the harbour of Washington shall again become obstructed, it shall be the duty of the said commissioners of navigation for the said port, on being duly informed of the fact, to give three months public notice thereof, at the expiration of which time the said tax or toll shall be received and be collected as before, and be applied to the removal of such obstructions until a sufficient sum shall be obtained to accomplish the same, when it shall again cease and determine on notice thereof being given to the collector of the customs aforesaid, and the said commissioners of navigation of the said port are hereby authorised and empowered to receive the said tax or toll from time to

Compensation
to commission-
ers.

Tax when to
cease, and when
it may be revived.

time, and for such periods as they may think necessary, by giving notice of such revival as aforesaid, in order that the said channel may always be kept clear from obstructions:

Act in force
when adopted
by Congress.

6. *Be it further enacted*, That this act shall take effect as soon as the consent of the congress of the United States is obtained thereto, and his excellency the governor, be, and he is hereby required to take measures to obtain the same.

CHAP. 933.

An act allowing compensation to the sheriff of Wake for attending the supreme court.

Treasurer to
pay sheriff of
Wake for at-
tending su-
preme court.

Be it enacted, &c. That the sheriff of the county of Wake, whose duty it is to attend the sittings of the supreme court of this state, be, and he is hereby allowed for each term of the said court which he shall attend the sum of twelve pounds, to be paid by the treasurer of the state, upon the certificate of the clerk of the said court, that he the said sheriff had performed that duty.

Read three times and ratified in General Assembly, 2
December 28, A. D. 1816. 5

JOHN BRANCH, S. S.
JA. IREDELL, S. H. C.

A Copy.—WM. HILL, Secretary.

John Branch,
esq. governor.

At a General Assembly, begun and held at Raleigh, on the seventeenth day of November, in the year of our Lord one thousand eight hundred and seventeen, and in the forty-second year of the independence of said state.

CHAP. 934.

An act to alter the mode of punishing the crime of horse-stealing.

Horse-stealing
clergiable for
first offence:

1. *Be it enacted, &c.* That the crime of horse-stealing shall in future, in the first instance be considered as a clergiable felony.

2. *And be it further enacted*, That if any person shall be found guilty of feloniously stealing any horse, mare, gelding, jack-ass, or mule within the limits of this state.

for the second offence such person shall suffer death without benefit of clergy ; any law to the contrary notwithstanding. Death for the second.

CHAP. 935.

An act to increase the penalty for neglecting or refusing to work on the public highways within this state, (a) (a See 1784, c. 227.)

1. *Be it enacted, &c.* That the sum of ten shillings per day shall be recovered from any person or persons liable to work on any of the highways in this state, who shall refuse or neglect to attend and perform the services required by law. Fine of \$1 per day for not working on roads.

2. *And be it further enacted,* That in all cases where the several overseers of roads are compelled to warrant their hands for neglect or refusal to perform their duty, and the said defendants are unable to discharge said judgment and costs, it shall be the duty of the respective county courts in this state to pay the costs upon the aforesaid warrants, *Provided,* that the defendant shall first have taken the benefit of the act for the relief of insolvent debtors. In case of insolvency of delinquents.

3. *And be it further enacted,* That all persons owning slaves liable to work on any public highway, who shall refuse or neglect to send their slaves when summoned as prescribed by law, shall forfeit and pay for each slave the above named penalty. Same penalty on owners of slaves.

4. *And be it further enacted,* That the penalty hereby imposed shall be recovered and applied under the rules, regulations and restrictions as are now prescribed by law.

5. *And be it further enacted,* That all acts and parts of acts coming within the purview and meaning of this act, be and the same are hereby repealed and made void. Former acts repealed.

CHAP. 936.

An act supplemental to an act entitled "an act declaring the duties of clerks and for other purposes," passed in the year 1816. (b) (b See 1816, c. 905.)

Be it enacted, &c. That for each summons directed to be issued by the act above referred to, and to which this act is a supplement, the sheriffs respectively for each

Sheriff's fees
for serving noti-
ces to guar-
dians.

county in this state shall be entitled to demand and receive of the person against whom such summons shall be issued the sum of thirty cents; any law, usage or custom to the contrary notwithstanding.

CHAP. 937.

An act concerning promissory notes and other negotiable instruments.

(See 1796, c.
464.)

Suits may be
brought against
the principal
and endorsers
jointly.

Be it enacted, &c. That it shall and may be lawful for any person or persons, bodies politic and corporate, having a right to demand any sum of money due upon any endorsed promissory note, single bill, bond or other writing obligatory which is, shall or may be negotiable by the laws of this state, to commence and prosecute at the option of the person or persons, bodies politic or corporate, having such right, an action or actions for such sum or sums of money so due as aforesaid against the maker or makers of such promissory note, or obligor or obligors in such bill, bond or other writing obligatory, and the endorser or endorsers thereof, jointly, or against any one or more of such makers or obligors and endorsers, and judgment shall and may be given accordingly; any law to the contrary notwithstanding.

CHAP. 938.

An act directing what number of jurors may hereafter be drawn to serve in the superior and county courts.

The number of
jurors to be
drawn.

1. *Be it enacted, &c.* That the several county courts of pleas and quarter sessions held in this state, may draw any number of jurors not exceeding thirty-six, nor less than thirty, to serve in the superior and county courts aforesaid.

2. *And be it further enacted.* That this act shall be in force from and after the passing thereof.

CHAP. 939.

An act to amend the road law.

1. *Be it enacted, &c.* That whenever any person by permission of the court of his county, and agreeably to

law, shall have turned, altered or changed any road, and shall tender the same to the overseer, and the overseer shall refuse to receive said road upon the ground that the said road is not in good or sufficient order, the person making such alteration in the road, if dissatisfied with the decision of said overseer, may petition the court of his county, who shall appoint three persons to examine said road, and their report as to the condition of the road shall be conclusive: and in like manner, any person liable to work on any road, or any person sending three hands to work on any road and dissatisfied with the certificate (a) or decision of any overseer, that a road altered or turned, or a new road opened, is in good and sufficient order, may make his objection to said certificate to the court of his county at the term such certificate is returned, and said court shall appoint three persons to examine said road, and their report as to the condition of said road shall be conclusive.

How to proceed in cases where roads are turned and refused by the overseer.

When received by the overseer and objected to by the hands.

(a See 1784, c. 227, s. 13.)

2. *Be it further enacted*, That no order of a county court imposing a toll on any road or bridge shall be made, unless all persons are subjected to said toll, and every order heretofore made or hereafter to be made, exempting any person from the payment of toll over bridges or roads, shall be null and void.

Toll on roads and bridges shall be general to all persons.

CHAP. 940.

An act further pointing out the duty of overseers of roads.

(See 1784, c. 227.)

1. *Be it enacted, &c.* That from and after the passing of this act, it shall be the duty of the overseers of the roads in the several counties in this state, where the county court may direct, to make or cause to be made and kept in repair, good and sufficient foot ways across all swamps and runs of water that may cross that part of the road altered them by an order of the court of said county, for the convenience of travellers on foot, and in case of failure, be subject to indictment as in other cases of neglect, in the performance of their duty on roads.

Foot ways to be made.

2. *And be it further enacted*, That it shall also be their duty to erect and keep hand-rails on each side of all hollow bridges where the county courts may direct,

Hand-rails to bridges.

which may be situated on that part of said road so allotted them by the county court.

Also to toll-
bridges.

3. *And be it further enacted*, That it shall be the duty of owners of toll-bridges to keep good and sufficient hand-rails across the same.

CHAP. 941.

(See 1784, c.
227.).

An act to compel owners of water mills situated on public roads, to keep in repair their bridges.

Duty of owners
of mills in keep-
ing up bridges.

1. *Be it enacted, &c.* That from and after the passing of this act it shall be the duty of every owner of a water mill, within any county in this state, whose mill is situated on any public road, to keep, at his, her or their own expense, in such order as the county court thereof may deem sufficient, all bridges that are or may be erected and attached to his, her or their mill-dam, immediately over which such public road may run: *Provided*, that nothing herein contained shall be construed to extend to any mill which was erected before the laying off of any such road, except such road as was laid off by the request of the owner of said mill.

Penalty for ne-
glect, 10*l.* &c.

2. *And be it further enacted*. That every owner or owners of any such water mill, who shall refuse or neglect to do his, her or their duty as is by this act directed, or shall let remain out of repair any such bridge or bridges for the space of ten days, unless prevented by unavoidable circumstances, such owner or owners shall forfeit for each and every such offence, the sum of ten pounds, over and above such damage as may be sustained.

Offences prose-
cuted by indict-
ment and penal-
ties how reco-
vered and ap-
propriated.

3. *And be it further enacted*, That all offences committed or done against this act shall be prosecuted by indictment in any court having cognizance thereof; and all forfeitures shall be recovered by action of debt, bill, plaint or information, one half to the use of the prosecutor, the other half to the use of the poor of the county in which the same may be recovered; any law to the contrary notwithstanding.

CHAP. 942.

An act to amend the several inspection laws of this state.

1. *Be it enacted, &c.* That so much of any act of the General Assembly of this state, as authorises the inspectors of tobacco to cause refused tobacco, or tobacco not fit for exportation, to be burnt, be and the same is hereby repealed.

Refused tobacco not to be burnt—parts of former acts repealed.

2. *And be it further enacted,* That in all cases hereafter, when a note for inspected tobacco shall be lost or destroyed, the owner thereof shall, before obtaining another note for the same, give bond with approved security, to the inspectors who gave the lost or destroyed note, or their successors, in double the amount of the value of the tobacco, to indemnify the person who may thereafter produce the original note, the value by him paid for the same: the bond so taken shall be assignable by the inspectors taking the same to the person producing the original note, who may maintain an action of debt thereupon, and such assignment shall exonerate the inspectors from any claim or demand against them, by virtue of the original note.

Mode of obtaining a new note for a lost one.

3. *And be it further enacted.* That this act shall be in force from and after the passing thereof.

CHAP. 943.

An act prescribing the duty of the majors and brigadiers-general of the militia of this state in certain cases.

1. *Be it enacted, &c.* That in future it shall be the duty of the majors and brigadiers-general of the militia of this state, to give fifty days notice by order to the commandant of their regiments or brigades, previous to such reviews taking place; and the reviews shall take place by the brigadiers and majors-general as aforesaid, at the same times and under the same rules and regulations as heretofore prescribed by law.

Notice of 50 days to be given of reviews.

2. *And be it further enacted,* That any majors or brigadiers-general failing to give notice as above specified, shall forfeit and pay, for every offence the sum of forty dollars, to be recovered before any jurisdiction having cognizance thereof, one half to the county in which such

Penalty for neglect.

recovery is had, and the other half to the use of the person suing for the same.

Penalty on brigadier-general for failing to make returns.

(a See 1806, c. 708, s. 22.)

3. *And be it further enacted*, That if any brigadier-general shall fail to make his return to the adjutant-general, as required by the 22d section of the militia act passed in 1806, (a) such brigadier-general so failing, shall forfeit and pay the sum of fifty pounds, to be sued for and recovered in like manner as other fines.

CHAP. 944.

An act to authorise the courts of pleas and quarter sessions of the respective counties in this state to increase the fees of the jailers thereof.

County court may increase jailers' fees.

Proviso.

(b See 1815, c. 899.)

Such increase to be recorded and not altered for 1 year.

1. *Be it enacted, &c.* That the courts of pleas and quarter sessions of the several counties within this state, be and they are hereby authorised and empowered, whenever they shall deem it expedient, a majority of the acting justices being present, to increase the fees of the jailers of their respective counties: *Provided*, that the same does not exceed fifty per cent. upon the fees now by law established. (b)

2. *And be it further enacted*, That whenever any county court shall increase the jailers' fees of said county, they shall cause the same to be recorded, which sum shall not be altered within one year thereafter.

CHAP. 945.

An act to authorise the several courts of pleas and quarter sessions within this state to lay a tax sufficient for the maintenance of the poor.

County courts to lay a tax for the poor.

Majority of justices to be present.

1. *Be it enacted, &c.* That the several courts of pleas and quarter sessions within this state, be and they are hereby authorised, on the application of the wardens, to lay a tax which may be sufficient for the maintenance of the poor, which said tax shall be collected and accounted for to the wardens and applied by them in the manner now prescribed by law: *Provided*, That a majority of the justices be present when said tax is laid.

2. *And be it further enacted*, That all laws and clauses of laws which come within the meaning and purview of

this act, be and the same are hereby repealed and made void.

CHAP. 945.

An act concerning mad dogs.

Whereas that most dreadful of all maladies, Hydrophobia, has become much more common than formerly, by reason of the negligence of the owners of dogs : For remedy whereof,

1. *Be it enacted, &c.* That whenever the owner of any dog shall know, or have good reason to believe, that his or her dog, or any dog belonging to his or her slave, or other person in his or her employment, has been bitten by a mad dog, and shall neglect or refuse immediately to kill the same, he or she so refusing or neglecting, shall pay the sum of twenty-five pounds, to be recovered for the use of him or her who may sue for the same, in any court having jurisdiction thereof, with costs.

Penalty for not killing dogs bitten by mad dogs

2. *And be it further enacted,* That he or she so refusing or neglecting as aforesaid, shall be further liable to pay all damages which may be sustained by any person or persons whatsoever, by the bite of any dog belonging as aforesaid.

Further liable for damages.

CHAP. 946.

An act to amend the health laws of this state.

(See 1793, c. 379, 1802, c. 62+.)

1. *Be it enacted, &c.* That if any vessel shall be brought into the state from a place which, at the time of her departure, was infected with the yellow fever, small pox or other infectious disorder, or if any vessel arriving in this state shall have the small pox or yellow fever, or other infectious disorder on board, or which shall have had such disorder on board during her passage to this state, such vessel shall be anchored at the place appointed for quarantine, and there remain until permitted to remove by the commissioners of navigation, or by the commissioners of the town to which said vessel is bound, and if any such vessel shall come to such town, or into its harbour, without permission obtained as aforesaid,

Vessels shall perform quarantine.

Fine.

the pilot or master conducting said vessel or ordering or permitting her to be so conducted to such town or harbour, shall be subject to indictment in the court of pleas and quarter sessions, or superior court of the county in which said offence is committed, and upon conviction, shall be fined not less than five hundred pounds and be subject to imprisonment until such fine and costs are paid: *Provided* such imprisonment shall not exceed one year.

Power of commissioners to remove vessels.

2. *Be it further enacted*, That the commissioners of navigation or the commissioners of the town in the harbour of which any vessel shall have arrived in violation of this act, shall have power and are authorised to use such force as shall be necessary to remove said vessel to the place of quarantine, their reasonable charge for which service shall be paid by the master or owner of said vessel, and may be recovered of either of them before any jurisdiction having cognizance thereof.

CHAP. 947.

An act for the revision of the acts of the General Assembly.

Preamble.

Whereas it is essentially necessary that the laws should exist in a form which will enable those who so wish, to become acquainted with them, and from the multiplicity of the acts of the General Assembly of this state upon the same subjects, and from their being passed at different times, and published as passed, it is very difficult for any but those who are professionally bred, to procure a knowledge of them: For remedy whereof,

Committee of revisal.

1. *Be it enacted, &c.* That a committee of three persons be appointed by joint ballot of both houses, whose duty it shall be to revise and consolidate the public acts and parts of acts of the General Assembly of this state, heretofore passed or which may be passed before the completion of their work: (a) And whereas, from the phraseology of the act of one thousand seven hundred and seventy-eight, chapter the fifth, doubts often arise what statutes of the parliament of Great Britain are in force in this state,

(a Revisal to be printed. See 1819, c. 996.)

Duty of committee to specify the British statutes in force.

2. *Be it further enacted*, That it shall be the duty of said commissioners to enumerate and specify those statutes and parts of statutes of Great Britain which are in force within this state.

3. *And be it further enacted*, That said commissioners shall be allowed such compensation as shall be judged adequate and proper, and that they report their proceedings to the succeeding General Assembly.

Compensation
to committee.

CHAP. 948.

An act to authorise the superior courts of law to sell the estates of idiots and lunatics.

(See 1801, c.
589.)

Be it enacted, &c. That whenever it shall be made appear to the satisfaction of the superior court of law of any county in this state, upon the petition of the guardian of any idiot or lunatic, that a sale of any part of the personal or real estate of such idiot or lunatic is necessary for his or her maintenance, or for the discharge of debts unavoidably incurred for his or her maintenance, said court shall be, and it is hereby empowered to make an order for the sale of such part of the personal or real estate of said idiot or lunatic, and upon such terms as said court shall think proper: *Provided*, that no order shall be made for the sale of real estate until said court is satisfied that the whole personal property has been exhausted: *And provided*, that said court may if it think proper, order said petition to be filed and their order of sale to be deferred until the next of kin or presumptive heir at law of said idiot or lunatic have been summoned to shew cause against said petition, if any they have, either by summons personally served upon them, or by advertisement, as in other cases of petitions, notices and advertisements are ordered to be made.

Petition to the
superior court
by the guardian
of an idiot, &c.

Order of sale.

Proviso.

CHAP. 949.

An act to punish the offence of killing a slave.

Be it enacted, &c. That the offence of killing a slave shall hereafter be denominated and considered homicide, and shall partake of the same degree of guilt when accompanied with the like circumstances that homicide now does at common law.

Killing a slave is
homicide as at
common law.

CHAP. 950.

An act supplementary to an act passed in the year one thousand eight hundred and nine, entitled "an act to prevent speculations in obtaining lands which may hereafter accrue to this state by purchase from the Indians." (a)

(a See 1809, c. 774.)

Preamble.

Whereas, by the above recited act it is provided that the land lying west of the line run by Meigs and Freeman, within the bounds of this state, shall not be subject to entry, and that all entries made, and grants obtained, or which might thereafter be obtained shall be null and void: for the more complete carrying into effect the intentions of said act,

Entry-taker's duty in Haywood county.

1. *Be it enacted, &c.* That it shall not be lawful for the entry-taker of Haywood county to suffer to be made in his office, any entry for land lying within this state to the west of said line run by Meigs and Freeman.

Penalty.

2. *And be it further enacted.* That if the said entry-taker shall suffer any entry or entries to be made in his office of said land, he shall forfeit and pay for each and every such entry or entries the sum of five hundred pounds, to be recovered by an action of debt before any jurisdiction having cognizance thereof, one half to the use of the person suing for the same, the other half to the use of the county of Haywood.

CHAP. 951.

An act concerning strays.

(See 1777, c. 119, s. 6.)

No liability in cases of death, unless &c.

1. *Be it enacted, &c.* That if after the appraisement of any stray horse, mare, gelding or colt, and entry thereof made with the ranger, such stray should happen to die within the space of twelve months after such appraisement, the person taking up such stray or strays shall not be answerable for the same, unless such death appears to have been occasioned by ill usage and abuse.

Repealing clause.

2. *And be it further enacted.* That so much of the act of the General Assembly passed in the year one thousand seven hundred and seventy-seven, entitled "an act to prevent abuses in taking up stray horses, cattle, hogs and sheep, and other things therein mentioned," as comes within the meaning and purview of this act, be and the same is hereby repealed.

CHAP. 952.

An act to amend an act passed at the last General Assembly allowing additional fees to rangers within this state.

Be it enacted, &c. That each and every ranger in this state who shall refuse or neglect to advertise all such strays as may by them be entered pursuant to the act passed in one thousand eight hundred and fifteen, (a) shall, for each and every such refusal or neglect, forfeit and pay the sum of four dollars, recoverable before any justice of the peace, to the use of the person suing for the same.

Requiring
strays to be ad-
vertised.
(a c. 892.)

Penalty.

CHAP. 953.

An act to revise and amend the laws respecting wrecks and wrecked property in this state. (b)

(b See 1801, c.
599, 1818, c.
975.)

Whereas, it is found by experience that the said laws do not fully answer the purposes intended : for remedy whereof,

1. *Be it enacted, &c.* That from and after the passing of this act, the counties of Currituck, Carteret, Onslow, New-Hanover and Brunswick shall be laid off into districts, to-wit, Currituck into seven districts, the first or easternmost district to commence at the Virginia line to Judy's Cove ; the second district from Judy's cove to Caffey's inlet ; the third from Caffey's inlet to Killybank bay ; the fourth from Killybank bay to New inlet ; the fifth from New inlet to the Bald beach to the south of Chickamiconico ; the sixth from thence to the Cape creek near the light-house, and the seventh from thence to Carteret county line : Carteret into three districts, the first or easternmost district to commence at the dividing line between Currituck and Carteret, from thence to Cedar inlet ; the second district from Cedar inlet to the old Topsail inlet ; the third district from old Topsail inlet to Bogue inlet : Onslow, two districts, the first district to commence at Bogue inlet to New river inlet ; the second district from New river inlet to the New-Hanover line : New-Hanover, two districts, the first to commence at the New Topsail inlet to Masenborough inlet ; from Masenborough inlet to the dividing line of Brunswick and said county : Bruns-

Districts laid off.

Appointment of
commissioners.

Bond.

Oath.

Sale to be ad-
vertised.

wick county into two districts, from New inlet to Lockwood's folly, and from Lockwood's folly to the South-Carolina line: And that the members of the General Assembly from said counties shall recommend a proper and fit person who shall be appointed and commissioned by the governor of the state for the time being, commissioner of wrecks for each of said districts respectively, and shall hold his office during the pleasure of the governor, and shall at the next county court after his appointment, enter into bond with two or more good and sufficient securities in the sum of fifteen thousand dollars, which bond shall be made payable to the governor for the time being or his successors in office, for the faithful discharge of their duties as commissioners of wrecks, and shall be deposited in the clerk's office of the county wherein said commissioners reside, and before entering upon the duties of his office, shall take and subscribe the oath by law required.

2. *And be it further enacted,* That when any commissioner of wrecks shall undertake to sell any wrecked or stranded property, it shall be his duty to advertise the sale thereof, not less than ten nor exceeding twenty days, at two or more public places in his county; and should said property be adjudged above the value of one thousand dollars, he shall advertise the same in some newspaper, (if any) and one other public place of the towns in the federal district of which his county forms a part.

CHAP. 954.

An act directing the mode of cancelling vouchers in the comptroller's office.

Comptroller to
procure instru-
ment for cancel-
ling papers.

1. *Be it enacted, &c.* That the comptroller be, and he is hereby authorised and required to procure an instrument of not less than one and a half inches diameter for cancelling papers in such a manner as not to render them illegible, and such instrument shall be thereafter used for the purpose of cancelling the vouchers in the comptroller's office.

2. *Be it further enacted,* That any act coming within the purview of this act shall be, and hereby is repealed.

CHAP. 955.

An act directing the mode of appointing courts martial in future, and for other purposes.

1. *Be it enacted, &c.* That the governor or commander in chief shall appoint general courts martial for the trial of major-generals: major-generals, each within his own division shall appoint division courts martial for the trial of brigadier-generals: brigadier-generals, each within his own brigade, shall appoint brigade courts martial for the trial of all officers above the grade of captain; and in like manner the colonel or commandant of each regiment or battalion shall appoint regimental or battalion courts martial for the trial of all commissioned officers under the grade of a field officer.

(See 1793, c. 378, 1806, c. 708.)

Who shall appoint court martials.

2. *And be it further enacted.* That when a court martial is ordered, the officer ordering it shall appoint the president, judge advocate and procest martial; and if it be a general court martial, orders shall be issued to such divisions as in the opinion of the governor or commander in chief, may most conveniently furnish the members thereof: if it be a division court martial orders shall be issued to such brigades as in the opinion of the officer ordering it may most conveniently furnish the members thereof: if it be a brigade court martial orders shall be issued to such regiments in the brigade as in the opinion of the officer ordering it may most conveniently furnish the members: if it be a regimental court martial the officer ordering it may and shall appoint the members.

Appointment of officers to form such court.

3. *And be it further enacted,* That the president of a general court martial shall not be under the rank of a major-general, and the court shall be composed of two brigadier-generals and ten field officers as members, six of whom shall be of different divisions: the president of a division court martial shall not be under the grade of a brigadier-general, and the court shall be composed of twelve field officers as members, six of whom shall be from a different brigade: the president of a brigade court martial shall not be under the rank of a colonel, and the court shall be composed of twelve officers as members, to be taken from the brigade, none of whom shall be under the rank of captain: the president of a regimental court martial shall not be under the grade of

Grades of the members of such court.

a field officer, and the court martial shall be composed of a majority of the officers of the regiment as members.

Duty of the commanding officer who is to furnish a member.

4. *And be it further enacted*, That whenever the commanding officer of a division, brigade, regiment or battalion shall be ordered to furnish any officer or officers as a member or members, supernumerary or supernumeraries of a court martial, such officer or officers shall be regularly detached from the roster of the division, brigade, regiment or battalion by the commanding officer thereof, forthwith after having received orders therefor: *Provided moreover*, that in case of sickness, inability or absence of any officer, whose turn it may be to serve on a court martial, the detailing officer shall certify such circumstance to the officer who ordered the court martial and detail the officer next in succession.

Mode of detailing members.

5. *And be it further enacted*, That officers ordered to be detailed to serve on court martial shall be detailed in the following manner: brigadier-generals by the major-generals of division from the division rosters; colonels, lieutenant-colonels and majors, by the commanding officers of brigades, from the brigade rosters; captains and subalterns, by the commanding officers of regiments or battalions from the regimental or battalion rosters.

What shall constitute a court martial.

6. *And be it further enacted*, That all courts martial for the trial of officers shall be constituted of a president, judge advocate and provost martial, together with the number of members prescribed by the provisions of this act; and the officer ordering a court martial shall and may, at his discretion, order a number of officers to be detailed as supernumeraries, in addition to those intended to serve as members, to attend the organization thereof, and in case there should be any vacancy or vacancies, the judge advocate shall fill such vacancy or vacancies from the supernumeraries, beginning with the highest in grade, and proceeding in regular rotation.

Rank.

7. *And be it further enacted*, That all officers on a court martial shall take rank by seniority of commission, without regard to corps, and before any court martial shall proceed to the trial of any officer, the judge advocate shall administer to the president, and each of the members, the following oath, "You A. B. do swear, that you will well and truly try and determine according to the evidence, the matter now before you, between the state of North-Carolina and the prisoner to be tried, and that you will duly administer justice according to

Oath.

the militia laws of the state of North-Carolina, without partiality, favor or affection, and you do further swear that you will not divulge the sentence of the court until it shall be published by the proper authority, neither will you disclose the vote or opinion of any particular member of the court, unless required to give evidence thereof as a witness by a court of justice in a due course of law, so help you God ;” and the president shall administer to the judge advocate the following oath : “ You A. B. do swear that you will faithfully and impartially discharge the duty of judge advocate on this occasion, as well to the state as to the accused, and that you will not disclose the vote or opinion of any particular member of the court, unless required to give evidence thereof as a witness by a court of justice in a due course of law, nor divulge the sentence of the court, to any but to the proper authority, until it shall be duly published by the same, so help you God.”

8. *And be it further enacted*, That the judge advocate of any court martial, constituted according to the provisions of this act, shall and may issue a summons in the nature of a subpoena in criminal cases, directed to the provost martial, to summon witnesses for the state and the accused, and the persons summoned by him shall be bound to attend and give evidence before the court martial, under the penalty of twenty pounds, to be recovered by the party aggrieved, on an action of debt in the county court, unless the witness can prove his inability to attend.

Witnesses summoned.

Penalty for not attending.

9. *And be it further enacted*, That all witnesses shall be sworn or affirmed by the judge advocate before they give their evidence, as in criminal cases, according to the following form : You A. B. do swear, (or affirm, as the case may be) that the evidence you will give the court, in the case between the state and C. D. shall be the truth, the whole truth, and nothing but the truth, so help you God.

Witnesses' oath

10. *And be it further enacted*, That all trials by courts martial shall be carried on in the day time, between the hours of ten o'clock in the morning and five o'clock in the evening, and when the votes shall be called for on any question, the judge advocate shall begin with the youngest in commission and proceed regularly to the oldest. And at all courts martial, unless two-thirds of the members agree that the accused is guilty, the judge

Trials to be held in the day time, &c.

Court to preserve order.

advocate shall record his acquittal, and all courts martial authorised or appointed in pursuance of the militia laws of this state, shall have full power and authority to preserve order during their session, and may imprison in the county jail, for the space of eight hours, any and all persons who shall, in the presence of the court martial, behave in a disorderly and contemptuous manner.

Duty of the judge advocate.

11. *And be it further enacted*, That it shall be the duty of the judge advocate upon all trials, to state impartially to the court, the evidence both for and against the accused, to take in writing the evidence for and against the accused, and to minute down the proceedings of the court, all of which, with the judgment or sentence of the court, thereupon authenticated by his signature, and that of the president of the court, with the papers used at the trial, or copies thereof, certified by him, he shall transmit under seal to the officer who ordered the court, and all motions or objections to evidence, whether on the part of the state or the accused, and the opinions of the judge advocate on questions of law made at the trial, shall be stated in writing, and the statement of the complaint, and the defence, shall be made in writing, so that a full view of the trial may be had by the officer whose duty it is to approve or disapprove of the proceedings, and all the original proceedings and judgment or sentence of all courts martial appointed according to the provisions of this act, after having been approved or disapproved by the officer who ordered them, shall by him as soon thereafter as may be convenient, be transmitted to the adjutant-general of the state, to be deposited and preserved in his office, and the party tried by any court martial appointed as aforesaid, upon request by himself or any person properly authorised, at the adjutant-general's office, shall be entitled to a copy of the original record, certified as aforesaid, of the proceedings and sentence of the court, he paying reasonably for the same.

In case of non-attendance of the officer charged.

12. *And be it further enacted*. That when any officer shall be arrested and notified to attend any courts martial which may be ordered for his trial, and shall refuse or neglect to attend the same, the said courts shall take up the charges and specifications alleged against him, provided, he has been served with a copy thereof, and proceed to trial in the same manner as if he was.

present, any law, usage or custom to the contrary, notwithstanding.

CHAP. 956.

An act to increase the salary of the governor.

Be it enacted, &c. That the sum of four hundred dollars shall hereafter be annually paid to the governor in addition to his present salary.

Governor's salary two thousand dollars.

CHAP. 957.

An act increasing the power of the commissioners of incorporated towns, in regard to dogs within the same.

Whereas, the number of dogs kept in the towns of this state, as well by slaves as by free persons, have so increased as to render them a nuisance, and greatly to increase the danger of the dreadful malady hydrophobia.

Preamble.

1. *Be it enacted, &c.* That the commissioners of every incorporated town in this state shall have power to impose such annual tax on dogs kept within said town as they shall think proper; and to require the persons owning or possessing said dogs, to return the same in their list of taxable property, in the same manner as other taxable property is by law required to be given in for taxation.

Commissioners of towns may lay a tax on dogs.

2. *Be it further enacted,* That if any person residing in either of said towns shall have in his possession within the same, any dog, and shall not return the same for taxation and shall fail to pay the tax after thirty days public notice of the imposition thereof, and of the notice to return the same for taxation, the commissioners of such town may, and are hereby authorised at their option, to sue for and recover the tax from the person so failing, before any jurisdiction having cognizance thereof, or may treat said dogs not returned for taxation, and not paid for, as nuisances, and may order their destruction as they may think fit.

Penalty for failing to give in.

CHAP. 958.

An act to cede to the United States of America certain lands upon the conditions therein contained.

Preamble.

Whereas, the congress of the United States have passed an act to erect a Beacon on Federal Point near the New Inlet on Cape-Fear river, which Beacon is already erected: and whereas, it is expedient the United States should have the exclusive jurisdiction of the land on which said beacon is erected.

Exclusive jurisdiction at Federal Point given to U. States.

1. *Be it enacted, &c.* That the exclusive jurisdiction of one acre of land at Federal Point, near the New Inlet on Cape-Fear river, on which a beacon is already erected by the United States, shall be ceded, and is hereby invested in the United States the said acre of land having been purchased by the United States aforesaid, upon condition that the beacon or a light-house be continued and kept up by the United States for the public use.

Proviso for the service of state process.

2. *And be it further enacted,* That nothing herein contained shall be so construed as to debar or hinder any of the officers of this state from serving any process or levying executions within the limits ceded by this act to the United States, in the same manner and to the same effect as if this act had never been passed.

CHAP. 959.

An act for the relief of sick and disabled American seamen.

Preamble.

Whereas, the hospital money collected at the port of Wilmington in this state, under the acts of Congress, is insufficient for the purposes designed,

List of seamen to be furnished at Wilmington, and master to pay 30 cents a month for each.

1. *Be it enacted, &c.* That the master or owner of every ship or vessel of the United States, shall before such ship or vessel shall be admitted to enter from a foreign port, render to the collector of the customs for the port of Wilmington, a true account of the number of seamen that shall have been employed on board such vessels since she was last entered at any port of the United States, and shall pay to the said collector at the rate of thirty cents per month for each and every officer and seaman so employed, which sum he is authorised to retain out of the wages of such seamen.

Collector of Wilmington not

2. *Be it further enacted,* That the collector of Wilmington shall not grant to any ship or vessel whose en-

rolment or license for carrying on the coasting trade has expired, a new enrolment or license before the master of such ship or vessel shall first render a true account of the number of seamen, and the time they have been severally employed on board such ship or vessel during the continuance of the license which has so expired, and pay the said collector thirty cents per month for each and every officer and seaman so employed as aforesaid, which sum the said master is hereby authorised to retain out of the wages of such seamen; and if such master shall render a false account of the number of men and length of time they have been severally employed as is herein required, he shall forfeit and pay one hundred dollars.

to grant a new license to vessel until master account for the tax. "

Penalty on master.

3. *Be it further enacted*, That the person designated by the president of the United States, as agent or director of the marine hospital of the United States for the port of Wilmington, in co-operation with the commissioners of the town of Wilmington, and the wardens of the poor for the county of New-Hanover, shall have the appropriation of the aforesaid fund for the relief of sick and disabled seamen: *Provided*, that no crew coming into said port with the small pox or other contagious disorder, shall be entitled to any benefit thereof.

Tax appropriated.

Proviso.

4. *Be it further enacted*, That the collector of the port of Wilmington aforesaid, shall, at the first county court for the county of New-Hanover, which shall happen after this act takes effect, enter into bond with sufficient security in the penalty of two thousand dollars, payable to the governor and his successors, with condition for the due and faithful accounting for and paying all such sums of money as shall or may come to his hands by virtue of this act, and that he shall render such account yearly to the treasurer of the state, exhibiting the amount received and paid for the relief and support of sick and disabled American seamen, and that he shall pay to said treasurer at the end of each and every year, the balance remaining in his hands, which sum paid over to the treasurer, shall remain in the treasury, forming a fund to be applied under the direction of the governor, in addition to such funds as may hereafter be appropriated by the United States for the erecting and supporting a marine hospital in the town of Wilmington; and if said collector fails to pay over and account

Collector's duty

Collector's compensation.

Act not in force until ratified by act of Congress.

(a Confirmed for five years by act of Congress of 4th April, 1818, c. 34.)

for said money, he shall forfeit and pay eight hundred dollars, to be recovered in any court of record in this state.

5. *And be it further enacted*, That the collector of Wilmington aforesaid, for his trouble in collecting and paying the money aforesaid, shall be entitled to, and deduct therefrom a commission of two and an half per cent.

6. *And be it further enacted*, That all acts and clauses of acts coming within the meaning and purview of this act, and contrary thereto, so far as it respects the port of Wilmington, is and are hereby repealed and made void ; and this act shall not be in force until the same is ratified and confirmed by an act of Congress of the United States.(a)

CHAP. 959.(b)

An act giving the assent of the General Assembly of the state of North-Carolina, to an act passed by the General Assembly of the commonwealth of Virginia, concerning the navigation of the Roanoke river and its branches.

Whereas, at a General Assembly of the commonwealth of Virginia, began and held on the eleventh day of November, in the year of our Lord one thousand eight hundred and sixteen, an act was passed by the said General Assembly, with the title, and in the words following, to-wit,

“An act to amend the act entitled, ‘an act incorporating a company for the purpose of improving the navigation of Roanoke river and its branches.’”

Whereas it is represented to the General Assembly, that the state of North-Carolina, by acts which have passed their legislature in the years one thousand eight hundred and twelve, one thousand eight hundred and fifteen, and one thousand eight hundred and sixteen, have incorporated a company to improve the navigation of that state so far as respects the river Roanoke and its waters ; that the company incorporated by the state of North-Carolina for that purpose have secured their charter according to the conditions imposed upon them by the act of incorporation granted by the General Assembly of North-Carolina, and have elected their president and directors for one year : it is indispensably necessary that the state of Virginia should aid this object, and assist an undertaking so extensively and intimately connected with the prosperity and interest of this state.

The act of Virginia.

Preamble.

1. *Be it further enacted*, That for the purpose of aiding and assisting the company so as aforesaid incorporated, the president and directors of the said company are authorised to hire slaves of the citizens of this commonwealth, whether hired by them in trust for life, or absolutely for any term that may be agreed upon by the president and directors of the said company, or their duly authorised agent or agents, and the holder or owner of such slaves ; provided that such slaves be employed when hired by said company, in and about their necessary work, in improving the navigation of the said river Roanoke ; and the president and directors of the said company shall and may return the said slaves to their holders or owners when the term of service shall expire for which they may have been hired, and the holders or owners shall have full power and authority to receive such slaves so hired, without incurring any of the penalties imposed upon holders or owners of slaves for carrying out or bringing into the state any slave or slaves once carried out, any law to the contrary notwithstanding. But in all cases of slaves held upon trust, or for life only, the said president and directors, or their duly authorized agents, as the case may be, shall give bond with security of the persons so holding for life or in trust, that they will return the slave or slaves to the persons, or their legal representatives, of whom they were hired, at the expiration of their term. The said president and directors for the time being of the said company, are hereby authorised and empowered to recover, in any court of record in this commonwealth, by motion, ten days previous notice thereof having been first given, their requisitions with costs of suit, including one dollar for sending the notices of any delinquent stockholder of the said company residing in the state of Virginia, who shall within one month after such requisition is so made, fail to pay the same to the president and directors, or their duly authorized agent, previous notice having been given of such requisition being so made upon the holders by the president and directors, in some newspaper in the state of Virginia.

Regulations for hiring negroes.

Mode of recovering instalments.

The interest of very many of the good people of this commonwealth requires that the improvement of the navigation of the Roanoke river and its branches, capable of being made navigable both in North-Carolina and Virginia, should be begun and completed as early as

possible, and that the right to improve the navigation of the said river and its branches shall be vested in one company,

Rights of the N. Carolina company extended to that part of the river and its branches which is in Virginia.

2. *Be it further enacted,* That the exclusive right to improve the navigation of said river and its branches, within the limits of the state of Virginia, shall be and the same is hereby vested in the company incorporated by several acts of the state legislature of North-Carolina, passed in the years one thousand eight hundred and twelve, one thousand eight hundred and fifteen, and one thousand eight hundred and sixteen, for the purpose of improving the navigation of the Roanoke river, from where the Virginia line intersects the river to the Albemarle sound, and called "the Roanoke Navigation Company," that the powers of the president and directors of said company, now elected, and their successors, shall extend to and be exercised over the improvement of the said river and its branches, which are created and vested in them by the several acts of incorporation granted them by the state of North-Carolina over that part of the river Roanoke which runs through the state of North-Carolina; and the rights of the company to improve the navigation of the said river and its branches, with all other rights and powers created by this act and vested in the company, shall be held, exercised and enjoyed in common both by the citizens of Virginia and the state of North-Carolina, who are now or shall hereafter become stockholders in the said company; and that for and in consideration of the expenses the said company shall be at, not only in cutting the canals, erecting locks, and other works for opening the different falls of the said river, and in improving and extending the navigation thereof, but in maintaining and keeping the same in repair, the said canals and works with all their profits, shall be and the same are hereby vested in the stockholders of the aforesaid company, who now are or shall hereafter become stockholders, their heirs or assigns forever, as tenants in common in proportion to their respective shares, and the same shall be deemed real estate, and be forever exempt from the payment of any tax, imposition or assessment whatever. It shall and may be lawful for the said president and directors to receive tolls, and fix them at such rates that the nett profit to be received by the company, when they shall have completed the navigation of the said river and its

branches within the state of Virginia and North-Carolina, according to the conditions of their charter granted by that state, fifteen per cent. nett profit exclusive of the expenses of officer's fees and all other charges annually incurred upon the capital stock created by the state of North-Carolina, and which shall be added thereto by this law. But should the said company not expend the whole stock created by their acts of incorporation granted by the state of North-Carolina, and the stock to be added thereto by this law, in the improvement of the navigation of said river and its branches, and the carrying into full effect their charter granted by the legislature of North-Carolina, that then they shall only receive fifteen per cent. nett profit upon so much of their capital as they shall actually have expended in carrying their several charters into full effect. The president and directors and their successors, or a majority of them, shall have full power and authority to agree with any person or persons on behalf of the said company, to cut such canals and erect such locks, and perform such other works as they shall judge necessary for opening, improving and extending the navigation of the said river and its branches, from the eastern boundary line between this state and the state of North-Carolina, and carrying on the same from place to place and from time to time, and upon such terms and in such manner as they shall think fit, and out of the money arising from their stock subscribed, the tolls and other aid given, to pay for the same, and to repair and keep in order the said canals, locks and other works necessary thereto, and to defray all incidental charges, and to appoint toll-gatherers, superintendents or agents, and fix their wages, and to pay them, and to make and establish rules of proceedings, and to transact all business and concerns of the company, not exclusively vested in the stockholders in their general meetings.

Powers of president and directors.

3. And the said president and directors, or a majority of them, shall have full power and authority to agree with the owners of any land, through which any canal is intended to pass, for the purchase thereof; and in case of disagreement, or the owner thereof shall be feme covert, under age, non compos mentis, or out of the state, on application to any two justices of the county in which such land shall lie, the said justices shall issue their warrant under their hands to the sheriff of their

How lands to be condemned.

county to summon a jury of twenty-four inhabitants of his county, possessing the same qualifications as jurors to serve in the superior courts of law in this commonwealth, to meet on the land to be valued on a day to be expressed in the warrant, not less than ten nor more than twenty days thereafter, and the sheriff upon receiving the said warrant, shall forthwith summon the said jury, and when met, provided that not less than twelve do appear, which shall be a sufficient number to compose a jury, but if more, all that are present shall be impannelled on the jury, but if twelve do not appear, and there are by-standers possessing the necessary qualifications, then the sheriff shall with those that do appear impannel as many by-standers as will make a jury of twelve at least, which jury when impannelled shall, (to be administered by the sheriff,) take the following oath or affirmation, that they will faithfully, truly and impartially value the land not exceeding in any case the width of one hundred and sixty feet, and assess all damages the owner thereof shall sustain by cutting the canal through such lands according to the best of their skill and judgment, and that in such valuation, they will not spare any person through fear or affection, nor any person grieve through malice, hatred or ill-will; and the sheriff shall thereupon take an inquisition which shall be signed and sealed by the sheriff, and at least twelve of the jury; in which verdict, if twelve of the jury concur, it shall be sufficient and as effectual as if all the jury had agreed in the verdict, which inquisition so taken by the sheriff shall by him be returned to the clerk of his county court, to be by him recorded upon the return thereof, and upon every such valuation it shall be the duty of the county surveyor to attend such jury, and he is hereby directed to describe and ascertain the bounds of the lands by the jury valued, and return a plat thereof to be recorded with the inquisition taken by the sheriff, and the valuation of the jury shall be conclusive and final upon all persons, and the damages by them found shall be paid by the president and directors to the owner of the land, or his or her legal representatives; and on payment thereof, the said company shall be seised in fee of such land, and it shall be forever vested in them. For summoning and impannelling and attending the jury, and making his return, the sheriff

shall receive four dollars. The surveyor for making any survey, making a plat, and return thereof, five dollars ; and the clerk of the court for recording the inquisition and return, shall receive one dollar and ninety-two cents, which fees shall be paid by the president and directors.

4. *Be it further enacted*, That all lands necessary for erecting buildings near the place of receipt of tolls aforesaid, shall be valued condemned and paid for as aforesaid, and the company shall upon payment of the valuation of the said land, be seised thereof in fee simple as aforesaid. Should it happen that twelve of any jury which may be impanelled under this law cannot agree in a verdict, it shall be lawful for the sheriff to discharge such jury, and make return upon the warrant of the fact to the justices issuing such warrant, or any other two justices in the county, who shall thereupon issue another in the same manner as if no warrant had ever issued, and the same proceedings shall be had as if no warrant had issued and shall be in like manner proceeded in until a jury shall be had, twelve of whom shall agree in a verdict ; but no juryman shall be summoned by the sheriff upon any subsequent jury who was sworn upon any divided jury ; and in all such new proceedings, the sheriff and surveyor shall receive the same fees for each jury, to be paid for in like manner as are allowed to them in the third section of this act.

Land for toll
houses.

And whereas, some of the places through which it may be necessary to conduct the said canals may be convenient for erecting mills, forges and other water works, and the person possessing such situation may design to improve the same :

5. *Be it therefore enacted*, That the water, or any part conveyed through any canal cut or made by the said company shall not be used for any purpose but navigation, unless the consent of the proprietors of the lands through which the same shall be led, be first had, and the said president and directors, or a majority of them, are hereby empowered and directed, if it can be conveniently done, to answer both the purposes of navigation and the water-works aforesaid, to enter into reasonable agreements with the proprietors of such situations, concerning the just proportion of the expenses of making large canals, or cuts capable of carrying such volume or volumes of water as may be sufficient for the

Water works.

purposes of navigation, and also for any such water-works as aforesaid ; but in no case whatever, shall the owner or proprietor of such land through which any canal may be cut as aforesaid, withdraw from any canal cut by the aforesaid company the water therefrom for the purpose of working any mill, forges or other water-works whatever.

River a public highway.

6. *And be it further enacted*, That the said river and its branches are now declared, and the works to be erected thereon in virtue of this act, when completed, shall forever thereafter be esteemed and taken to be navigable as a public highway, free for the transportation of all goods, commodities or produce whatever, on payment of the tolls imposed by this act.

A capital of \$200,000 created.

7. *Be it further enacted*, That to enable the said company to improve the navigation of the said river and its tributary streams, according to the provisions of this act, a capital stock of two hundred thousand dollars, in addition to their stock created and granted them by the General Assembly of North-Carolina, is hereby created, which shall be divided into two thousand shares of one hundred dollars each ; and that the stockholders of the aforesaid company at their next general meeting, whether it be their annual or general meeting called by the president and directors, shall open books at such places, and under the management of such commissioners as they may think proper to appoint, that no person shall subscribe for a part of a share or shares, but for one whole share at the least, and that upon the shares so subscribed the persons or bodies politic or corporate subscribing shall pay, on the first day of December next, to the said president and directors or a majority of them, ten per cent. upon each share subscribed, and such requisitions as the said president and directors, or a majority of them, may make, so that they shall not on any subscription exceed thirty three and one-third per cent. in any one year.

And for all shares not subscribed for the first day of December next, the commissioners appointed by the stockholders at their general meeting shall continue their books open, and shall be subject to any further directions of the stockholders in their general meetings, who may, if necessary, appoint other or additional commissioners at the same or other places, until they shall dispose of the stock created by this law.

That for all stock subscribed for after the first day of December next, at the time of subscribing, ten per cent. shall be paid upon each share so subscribed for, and such requisitions as the president and directors, or a majority of them, may make, so that they do not exceed thirty-three and one-third per cent. in any one year.

Instalments how paid.

That the said commissioners shall at every general meeting of the stockholders held after their appointment, return their books of subscription to the president and directors, or a majority of them, and at the same time account for the money received by them, and in the event of their failure to pay the money so received, the said president and directors may, upon ten days previous notice being given to such commissioner, recover the amount by him so received with costs, and fifteen per cent. damages until payment, in any court of record in this state: and in the event of more than two thousand shares being subscribed, the stockholders at their next general meeting, after the books are closed, shall strike from the shares of those having the highest number until the stock shall be reduced to two hundred thousand dollars; and should it happen that two or more persons should hold an equal number of shares which stand the highest upon the list, that then the stockholders shall decide by ballot, from whose stock the shares are to be taken; always striking from the highest number until the stock shall be reduced to two hundred thousand dollars.

Commissioners to return books to president and directors, &c.

The several banks in this state and all bodies politic and corporate, shall be and they are hereby authorised to subscribe for shares in the said company, and to hold and enjoy the same in the same way as individuals, subject to the same restrictions and modes of recovery.

Banks may subscribe.

8. *Be it further enacted*, That whenever the said president and directors, or their successors, shall make requisitions upon the stockholders for payment of any part of their stock, they shall give one month's public notice of such order of requisition so made, in some newspaper published in Petersburg, the borough of Norfolk, and Raleigh in the state of North-Carolina, and if upon such requisitions so made, and notice given, any stockholders shall fail to make immediate payment of the requisition so made, the president and directors, upon motion in any court of record in this commonwealth, having given ten days previous notice of such motion, may

Regulations for collecting instalments.

recover judgment of any delinquent stockholder for such requisitions so made upon him and costs of motion, including one dollar for service of notice, and sue out execution thereon, upon which the clerk shall indorse, "no security of any kind to be taken," and such execution shall be directed to the sheriff of the county or serjeant of the town, city or borough, where such delinquent shall then or last have resided, who shall without delay proceed to levy the same, and if the officer to whom such execution is directed shall fail to make the debt and costs due thereon, and shall make a return of *nulla bona* as to part or the whole of the execution, then and in that case, the president and directors shall immediately proceed to advertise such delinquent stock one month in some one newspaper in Virginia and North-Carolina, and sell so much of the stock, as is delinquent, for cash, as will satisfy and pay whatever balance of debt and costs may be due the company, and after deducting what may be due, with the costs of advertising and other incidental charges of sale, shall pay over any overplus in their hands to the original subscriber, and the stock so sold shall be held by such purchaser, subject to any future requisitions which may after such sale be made by the president and directors, as it would have been in the hands of the first holder, and in all things the purchaser shall be substituted in the place of the original holder, and in all such sales the president and directors shall convey the stock so sold to the purchaser by deed, stating the cause of sale, which deed shall be duly recorded in the county court where the last holder lived, as other deeds for real estate, and registered on the books of the company.

How shares may
be transferred.

It shall and may be lawful for said stockholders to transfer their share or shares of stock by deed executed in the presence of two witnesses, or the execution thereof acknowledged by the party thereto, and recorded in the county or corporation court where the holder lives at the time of the sale, and registered in the books of the company, but in no case shall a transfer of a part or parts of a share or shares be made either by deed or will, and in all cases of stock cast by descent or devised by will, the descent cast or devise made shall be entered on the books of the company, and if any stockholders shall die intestate and his shares shall descend to his distributees, and upon division thereof, the shares can-

not be equally divided between such distributees, without dividing shares into parts of shares, such shares as cannot be divided in entire shares shall be sold for their benefit, and the proceeds divided between them according to their respective rights, *Provided*, that no transfer whatever shall be made, conveyed or held in trust for the use and benefit, or in the name of another, whereby the president and directors or proprietors of the said company or any of them, shall or may be made to answer concerning any such trust, but that every person appearing as aforesaid to be a proprietor, shall as to the others of the said company, be to every intent taken absolutely as such, but between any trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued.

9. *Be it further enacted*, That the said president and directors, or a majority of them, shall make out a fair list under their hands and seals of the names of stockholders, their places of residence, and the number of shares subscribed for by each stockholder under this act, to the county court of Mecklenburg, which list so returned shall be recorded by the clerk, who shall grant a certificate to each stockholder, certifying the number of shares by him held; for recording which return and granting the certificate, the clerk may demand and receive of each stockholder fifty cents, which certificate shall be legal evidence of the stockholders right to his stock, and a like list, certified by the president and directors or a majority of them, shall be registered on the books of the company at some of the general meetings of the stockholders.

Names of stockholders to be returned to Mecklenburg county court, and there recorded.

10. *Be it further enacted*, That the board of public works in this state are authorised and required to subscribe the sum of eighty thousand dollars towards the stock of the Roanoke Navigation Company, upon condition that the state of North-Carolina shall give its assent to this act. The said subscription to be upon the same terms in all respects with that of the state of North-Carolina to the stock of the Roanoke Navigation Company.

State to subscribe \$80,000 provided, &c.

11. *And be it further enacted*, That if the capital stock created by the state of Virginia and North-Carolina, shall prove insufficient to improve the navigation of the said river and its branches, the stockholders in general meeting shall have power to open books in the

Books may be opened for increase of capital.

same manner, and upon the same terms and principles, as they are authorised by the charter of the state of North-Carolina, and they shall authorise as many shares, of one hundred dollars each to be taken in Virginia as are authorised by the state of North-Carolina, and the stockholders shall, as in the charter of North-Carolina be allowed thirty days from the opening such books in exclusion of all other persons to take such stock.

And if the said stock is not taken by the said stockholders in thirty days, then such stock as shall remain unsubscribed for, may be subscribed for by any person, body politic or corporate, under such restrictions as to time of payment as the stockholders may impose, and the stockholders subscribing for the stock thus created by the stockholders shall have, use, and be entitled to all the rights, privileges and immunities of the original stockholders, and be subject to the like rules and regulations, and their shares to be recorded and registered in like manner, and in case of delinquency in payment of requisitions liable to the same mode of recovery.

Right retained
by Virginia.

12. *Be it further enacted*, That nothing in this act contained, shall prohibit the General Assembly of Virginia from passing acts for the incorporation of companies to cut canals from the river Roanoke, or any of its tributary streams, so as to connect the waters thereof, with other rivers or streams: *Provided*, that the legislature shall not withdraw from the said river or its tributary streams or canals, cut or constructed thereon, so much of its waters as to interfere with the rights secured to the aforesaid company, or to impair the navigation which the said company is hereby authorised to improve.

Tolls.

The said president and directors, and their successors, shall from time to time, for the use of the navigation of the said river, its tributary streams and canals constructed thereon, graduate a scale of tolls so as to make the tolls by them to be imposed bear a just proportion to different designated points of distance.

Dividends.

13. *Be it further enacted*, That after deducting the necessary expenses for the current year, the dividends of the profits arising upon the stock created by this charter, shall be declared and divided between the stockholders, in proportion to the number of shares each shall hold at the same time, and in the same manner, as

the dividends are directed to be made and declared between the stockholders by the acts of incorporation granted the aforesaid company by the General Assembly of North-Carolina.

The president and directors of the said company for the time being shall cause to be set up, and continually kept up, at all their toll-gates, at the respective toll-houses they may erect, the rates of toll that may be established, so that an effectual check may be imposed upon the collectors of tolls.

14. *Be it further enacted*, That at the same times, and in the same manner, that the charter granted by the state legislature of North-Carolina to the said company, requires that their president and directors shall report to that legislature a correct transcript of their rates of tolls imposed by the company, the tolls received, and their expenditures, shewing the amount of their dividends of clear profit upon their stock, that the said president and directors shall make a like report to the General Assembly of Virginia. And if it shall appear from their reports so made, that the president and directors of the said company have exacted greater tolls than have yielded them the clear profits allowed by this charter, and the charter of North-Carolina, the General Assembly of Virginia reserves to itself the right of thereafter regulating the tolls of said company, so that such regulations shall not diminish their nett profit below fifteen per cent. upon their capital actually expended according to their charter.

Report to General Assembly.

15. *Be it further enacted*. That the said company, in addition to the land the company are authorised to condemn, for the purpose of cutting their canals, may acquire real estate in the state of Virginia to the amount of fifty thousand dollars in its original cost, which they shall have the power to alienate, should the interest of the company require it. And the said company shall have power to acquire by purchase, personal estate, and dispose of it when their interest may require it.

How much real estate company may hold.

The said president and directors, may and shall have the power to employ their hands hired or purchased, in Virginia or North-Carolina, as the interest of the company may require, without incurring any of the penalties of the laws against bringing slaves into this state; but this privilege shall not extend to the company the right of selling in this state any of the slaves by them purchased in any other state than Virginia.

Hands hired or purchased may be employed in either state.

Collection of
tolls.

16. *Be it further enacted*, That it shall and may be lawful for the said president and directors for the time being, to demand and receive tolls at the several places they shall establish for the receipt thereof, and in case of refusal or neglect to pay the tolls at the time of offering to pass through the places aforesaid, and previous to the vessels passing through the same, the collector of the tolls may lawfully refuse passage to such vessel, and if any vessel shall pass without paying the said tolls, then the said collector may seize such vessel, wherever found, and sell the same at auction for ready money, which so far as may be necessary, shall be applied towards paying the said tolls and all expenses of seizure and sale, and the balance, if any, shall be paid to the owner, and the person having the direction of such vessel shall be liable for such toll, if the same is not paid by the sale of such vessel as aforesaid.

When navigation must be completed.

17. *Be it further enacted*, That in case the said company shall not complete their works, and the improvement of the navigation of said river and its tributary streams, by the first day of January, one thousand eight hundred and forty-three, then shall all the interest of the said company, under this charter and all preference in their favour as to the navigation and toll aforesaid, be forfeited and cease.

The company to accept or reject this act, &c.

18. *Be it further enacted*, That at the next general meeting of the stockholders of the Roanoke Navigation Company, created by the legislature of the state of North-Carolina, whether it be called or their annual general meeting, the said stockholders shall declare their acceptance or rejection of this charter, with its conditions and limitations as created and vested in them, by this act; and if they accept the charter, a resolution shall be adopted by them declaring their acceptance with its condition, which shall be inserted in their proceedings at large upon their books; a copy of which resolution, certified under the hand and seal of their chairman and secretary, and countersigned by their president, shall be transmitted to the executive of the state of Virginia, and the governor of North-Carolina, which resolution shall form a part of the communication of the governor to the General Assembly of Virginia at their next session.

Conditional repeal of former act.

19. *And be it further enacted*, That should the aforesaid company accept the charter offered to them by this law, that then the law passed the nineteenth day of Fe-

bruary, one thousand eight hundred and sixteen, entitled "an act incorporating a company for the purpose of improving the navigation of Roanoke river and its branches," shall be and the same is hereby repealed, but should the charter aforesaid be rejected by the aforesaid company, that then the said act shall remain in full force, and although the said company should reject this charter their rejection shall not impair the first and second sections of this act.

20. This act shall be in force from the passing thereof."

Now, be it enacted by the General Assembly of the state of North-Carolina, That the assent of the state of North-Carolina, be and the same is hereby given to the said act; and the Roanoke Navigation Company, shall have, exercise and enjoy all the rights, franchises and privileges given by the said act, subject to the limitations and restrictions therein contained; but nothing contained in the said act or in any other act, heretofore passed, respecting the navigation of Roanoke river and its branches, shall be construed to prohibit the General Assembly of the state of North-Carolina, from passing acts for the incorporation of companies to cut canals from the river Roanoke, or any of its tributary streams, so as to connect the waters thereof, with other rivers or streams; provided that the legislature shall not authorise the withdrawal from the said river or its tributary streams or canals cut or constructed thereon so much of its waters as to interfere with the rights secured to the aforesaid company, or to impair the navigation which the said company is authorised to improve: and provided further, that the state of North-Carolina shall at any time have the right to increase her subscription to the stock of said company, so that her whole interest in the said stock shall not exceed the sum of eighty thousand dollars.

Assent of North-Carolina given to the aforesaid act.

Reservation of right.

21. *And be it further enacted,* That the stockholders in the Roanoke Navigation Company, shall, within four calender months after the first day of January next, notify his excellency the governor of their acceptance or refusal of their charter as by this act amended, and if said company and stockholders shall fail to give such notification, such failure shall be construed an acceptance of the same.

Notice of acceptance of this act.

And if said company shall refuse to accept of the amendments aforesaid to their charter, then this act and every part thereof shall be of no effect or virtue whatever. But shall be absolutely void.

Toll not to exceed 15 per cent.

Provided nothing in this act shall be construed to deprive the legislature of North-Carolina of regulating the toll of said company within the said state so as to prevent the nett profits from exceeding fifteen per cent.

CHAP. 960.

An act to alter the times of holding the superior courts of law of Carteret, Jones and Craven.

Altered as to Carteret and Craven by 1818, c. 986.

Be it enacted, &c. That the superior court of law and equity for the county of Jones, shall hereafter be held on the third Monday after the fourth Monday of March and September: *Provided*, that this arrangement shall not take place until next term succeeding the following spring term.

CHAP. 961.

(a c. 781.)

An act to amend and continue in force an act passed in the year one thousand eight hundred and nine, (a) entitled "an act to annex Smith's island at the mouth of Cape-Fear river, to Brunswick county, and part of Eagle's island to the county of New-Hanover."

1. *Be it enacted, &c.* That the before recited act, be and the same is hereby revived and continued in full force.

2. *And be it further enacted*, That General William Watts Jones and John Hogg, of New-Hanover, and Alfred Moore and Jacob Leonard, of Brunswick county, be and they are hereby appointed commissioners for carrying into effect provisions of the said act, in the room and stead of those named therein, and that they be allowed a further time of two years from the passing of this act, to complete the surveys and dividing lines, as mentioned in the before recited act.

Read three times and ratified in General Assembly, }
December 23, A. D. 1817. }

B. YANCEY, S. S.
JA. IREDELL, S. H. C.

A Copy.—WM. HILL, Secretary.

at a General Assembly, begun and held at Raleigh, on the seventh day of November, in the year of our Lord one thousand eight hundred and eighteen, and in the forty-second year of the independence of the said state.

John Branch,
esq. governor.

CHAP. 962.

An act concerning the supreme court.(a)

1. *Be it enacted, &c.* That there shall be appointed by joint ballot of the two houses of this General Assembly, three judges, being men of integrity and learning in the law, who shall be styled judges of the supreme court of North-Carolina; shall be commissioned by the governor, shall hold their offices during good behaviour, and shall yearly receive an annual salary of twenty-five hundred dollars, to be paid half yearly, and the first payment to be made on the last day of June, one thousand eight hundred and nineteen.

Three judges to be appointed.

Salary \$2500.

2. *Be it further enacted,* That it shall be the duty of the judges appointed pursuant to this act and of their successors in office, to hold the supreme court of this state at the city of Raleigh, twice in every year, viz: on the twentieth day of May and twentieth day of November(b) in every year, and that they shall keep the said court open from day to day (Sundays excepted,) until every cause prepared for a decision shall be heard and decided: *Provided,* that if the 20th of May or the 20th of November should be on Sunday, then the court shall commence on the succeeding day: *Provided further,* that the first term of the said court shall be held on the first Monday of January next.

Time and place of holding court.

(b altered to 3d Monday June & last Monday December, see 1819, c. 1015.)

3. *Be it further enacted,* That all causes of whatever nature or description, now pending in, or ordered to be removed to the supreme court, before the judges at present authorized to hold the same, shall be, and the same are hereby referred to the cognizance of the judges appointed under this act in the supreme court to be by them holden, and shall there be placed precisely in the same state and condition as that in which they now stand or ought to stand in the supreme court under its present form; and the decisions of the judges appointed

Transfer of jurisdiction.

(a) See 1799, c. 520, 1801, c. 576, 1804, c. 660, 1805, c. 674, 1806, c. 693, 1806, c. 741, 1810, c. 735, 1811, c. 808, 1812, c. 829, 1813, c. 851, and post, c. 963.)

under this act, or of the majority of them thereon, shall have in every respect the same legal effect and operation, and shall be certified and carried into effect in the same manner in all respects as though the said decisions had been made in the supreme court under its present form, and before the judges now authorised to hold the same.

No cause to be transmitted but by appeal, except as hereinafter provided.

4. *Be it further enacted*, That no cause shall hereafter be transmitted to the supreme court except as hereinafter provided, but on appeal of one of the parties thereunto from the sentence, judgment, or decree of a superior court, and that such appeal may take place in any cause either civil or criminal, on giving bond and adequate security to abide the sentence, judgment or decree of the supreme court, and that such bond may be proceeded on in the same manner as in the case of appeals from a county to a superior court: *Provided always*, that no appeal shall be allowed until a final judgment, sentence or decree be allowed in the superior court, and *provided also*, that in every case the supreme court may render such sentence, judgment or decree as on an inspection of the whole record it shall appear to them ought in law to be rendered thereon, and may cause the same to be enforced and executed by any proper process.

Regulations as to appeals.

Equity causes removed to this court by affidavit.

5. *Be it further enacted*, That in any case which now is, or hereafter may be pending in any of the superior courts as a court of equity, it shall and may be lawful for each court, on sufficient cause shewn by affidavit, rendering such a removal necessary for the purposes of justice, to order the said cause before a hearing to be removed into the supreme court: *Provided*, that such removal shall not be permitted until such cause shall have been set down for hearing; nor shall any parol evidence be received in the supreme court either before the judges thereof or the jury whom they may cause to be impannelled for the trial of any issues of fact.

No parol evidence.

Payments of salaries by tax on auctions.

6. *And be it further enacted*, That for the purpose of paying the salaries of the judges, appointed pursuantly to this act, there shall be imposed a tax of two dollars and fifty cents for every one hundred dollars of purchase money arising by sale at auction, of goods, wares and merchandize, and at the same rate for any greater or less sum: *Provided always*, that the said tax shall not apply to any sale at auction, of goods, wares and

merchandise, made pursuant to, or in execution of any order, or judgment of a court, or made by or on behalf of executors or administrators, or guardians, or made pursuant to any law touching the collection of a public tax or duty, or to a sale of wrecked goods, or to the sale of public property. (a)

(a See post c. 966, and 1819, c. 993.)

7. *Be it further enacted.* That so much of any act or acts as authorises or requires the judges of the superior courts to hold the supreme court, and so much of any law as may be inconsistent with the provisions of this act, be and the same are hereby repealed; and that this act shall commence and be in force from and immediately after the passage thereof.

Repealing clause.

CHAP. 963.

An act supplemental to the act concerning the supreme court. (b) (b c. 962.)

1. *Be it enacted, &c.* That the judges of the supreme court of North-Carolina, before they act as such, shall before the governor for the time being, or some judicial officer of the state, severally take the oath to support the constitution of the United States, the oath appointed for the qualification of public officers, and also the following oath—I, A. B. do solemnly swear, that in my office of judge of the supreme court of North-Carolina, I will administer justice without respect to persons, and do equal right to the poor and the rich, to the state, and to individuals, and that I will honestly, faithfully and impartially perform all the duties of the said office, according to the best of my abilities, and agreeably to the constitution and laws of the state, so help me God.

Judges of supreme court to take an oath.

2. *And be it further enacted.* That at the first term of the supreme court the judges thereof, shall appoint one of their number to preside therein, who shall thenceforth be styled chief-justice of the supreme court of North-Carolina, and that the said chief-justice and each and every of the other judges of the supreme court aforesaid shall have, use, exercise and enjoy the same powers and authorities, rights, privileges and pre-eminences in every respect as are now had, used, exercised and enjoyed by the judges respectively of the superior courts of law and equity within this state, except that no judge of the supreme court shall be authorised to hold a superior

Chief-justice to be appointed.

Powers and jurisdiction of the judges of supreme court.

court: and that for the purpose of carrying such powers and authorities into execution, each of the said chief-justice and judges of the supreme court may make any fiat, may order or issue any process, and perform any act which it is lawful for any judge of the superior courts to make, order, issue or perform.

Admission of attorneys.

3. *And be it further enacted*, That henceforth persons who may apply for admission to practise as attorneys in any court, shall undergo an examination before two or more of the judges of the supreme court aforesaid, and on receiving certificates from said judges of their competent law knowledge and upright character, shall be admitted as attorneys in the courts specified in such certificates.

Power to issue writs.

4. *And be it further enacted*, That the supreme court aforesaid shall have power to issue writs of certiorari, scire facias, habeas corpus, mandamus, and all other writs which may be proper and necessary for the exercise of its jurisdiction, and agreeable to the principles and usages of law. And that it may at its discretion make the writs of execution, which it may issue, returnable either to the said court, or to the superior court from which the same may have been removed: *Provided always*, that when an execution shall be made returnable as last mentioned, a certificate of the final judgment of the supreme court shall always be transmitted to the superior court aforesaid, and there be recorded: and *provided further*, that the said superior court may enforce obedience to said execution, and in the event of its not being executed, may issue any new or further execution or process thereon in the same manner as though the first execution had issued from said superior court: and *provided further*, that in criminal cases the decision of the supreme court shall be certified to the superior court from which the case was transmitted to the supreme court, which said superior court shall proceed to judgment and sentence agreeably to the decision of the supreme court, and the laws of the state.

Certificate in criminal cases.

Appointment of clerk.

5. *And be it further enacted*, that the judges of the supreme court aforesaid shall have power to appoint a clerk of the said court, who shall hold his office during good behaviour, and who before entering on the duties of his office, shall enter into bond with sufficient security, payable to the governor, for the time being, in the sum of ten thousand dollars, conditioned for the faithful dis-

charge of his duties and for the safe keeping of all records committed to his custody, which bond shall be lodged with the secretary of state, and who shall also before the said judges, or one of them, take the same oath as is prescribed by law to be taken by the clerks of the superior courts; and the said clerks shall perform the same duties and be entitled to the same compensation, as the existing law provides in regard to the clerk of the supreme court.

For compensation, see 1808, c. 742, s. 3, 1812, c. 829.

6. *And be it further enacted*, That in all cases of appeals to the supreme court, it shall be the duty of the appellant to file a transcript of the record of the cause, together with the bond given for the appeal, on or before the third day of the term next ensuing said appeal, provided fifteen days shall have elapsed since the appeal, and before the commencement of said term; and if fifteen days have not elapsed as aforesaid, then on or before the twelfth day of said term; and the supreme court may render judgment against the securities for an appeal in the same manner as a superior court may on an appeal from the county court.

Appeals.

7. *And be it further enacted*, That if the appellant shall fail to file the transcript and bond aforesaid as is above described, it shall be lawful for the appellant either to file the same at any time during that or the next succeeding term, or to obtain a certificate from the clerk of the supreme court under the seal of the court of such failure, which certificate of such failure on the part of the appellant, he shall file in the office of the clerk of the court from which the appeal was prayed, and it shall be the duty of the said last mentioned clerk to record the said certificate, and then to issue execution or any other proper process on the judgment rendered in the superior court, as though no appeal had been prayed, taxing double costs against the appellant.

Provision when the appellant fails to file the appeal in due time.

8. *And be it further enacted*, That whenever any cause or causes may be pending in the supreme court, which in consequence of a personal interest in the event thereof, or of some other sufficient reason, some one or more of the judges of said court may be incompetent to decide; and the public interest may therefore demand the aid of other judges to bring the same to a determination, it shall be lawful for the governor of the state, on being officially informed of this necessity by the judges of the said court, and he is hereby authorised and directed to

Where a judge is incompetent by reason of personal interest, &c. the governor to appoint another by his letter missive.

issue a letter missive under the seal of the state, directed to and requiring some one or more of the judges of the superior courts to attend the said supreme court, and to sit therein as a judge or judges on the trial of the said cause or causes : and the judge or judges, who in pursuance of such requisition from the governor, shall sit in the supreme court aforesaid, shall in regard to the cases specified in such letter missive, have respectively every power, jurisdiction and authority which belongs to any judge of the supreme court aforesaid, and the judge of the superior court attending as aforesaid, shall be paid by the treasurer on the warrant of the governor, a compensation for his services, not exceeding one hundred dollars for the term.

Shall prescribe
rules of practice.

9. *And be it further enacted*, That the judges of the supreme court shall prescribe and establish from time to time rules of practice for the superior courts, which rules the clerk of the supreme court shall certify to the judges of the superior courts, who shall cause the same to be entered on the records of the said courts.

Allotment of
the circuits.

10. *And be it further enacted*, That the judges of the superior courts shall allot themselves, one to each of the judicial circuits, as they shall think fit, and shall notify the governor of their allotment, before the first day of February next ; and in case no such allotment be made and notified, the governor shall make an allotment ; and from time to time the said judges may change their allotment, and notify the governor thereof. And if in the opinion of the governor, the public interest shall require any change, not made by said judges, he may from time to time change their allotment. And in all cases it shall be the duty of the secretary of state, by advertisement continued for three weeks in the newspapers printed in the city of Raleigh, to give notice of the allotment at any time made. *Provided nevertheless*, That no judge shall ride the same circuit twice in succession.

Public notice
thereof.

Appointment of
clerks of superior
courts.

11. *Be it further enacted*, That when any vacancy shall happen in the office of clerk of a superior court of law, or in the office of clerk and master in equity, of any county, the judge allotted to the judicial circuit in which such county is included, shall have power to fill such vacancy.

(See 1816, c.
903, s. 1.)

Compensation
to judges of su-
perior courts.

12. *Be it further enacted*, That the judges of the superior courts of law and equity shall be entitled to a compensation of ninety dollars for every term of said court

they shall hold, to be paid on certificates of the clerks of said courts respectively, as heretofore by law directed.

13. *Be it further enacted*, That the judges of the supreme court shall appoint some fit person as reporter of the decisions of said court, who shall be entitled to receive from the treasury of this state an annual compensation for his services, the sum of five hundred dollars: *Provided nevertheless*, The said compensation shall not be paid unless said reporter shall print and publish, or cause to be printed and published, in a neat type and on good paper, the decisions of said court, made during the time he shall act as such reporter, within nine months after such decisions shall be made, and shall deliver eight copies of the decisions, so printed and published, to the secretary of state, without any expense to the state. Which copies shall be distributed as follows, to wit: to the secretary of the governor, to the clerk of the supreme court, each one copy, to be retained in their office and handed over to their successors in office; and the residue of said copies shall be deposited in and become part of the library of this state; and the said reporter shall also deliver sixty-two copies of said reports to be deposited one in the office of the clerk of the court of pleas and quarter sessions of each county of the state.

Reporter to be appointed, his duties and compensation.

14. *Be it further enacted*, That this act shall commence and be in force from and after the passage thereof.

CHAP. 964.

An act to amend and explain the laws relating to insolvent debtors. (a) (*a See 1773, c. 100, 1810, c. 802.*)

Whereas doubts are entertained whether a prisoner for debt, who hath given bond to keep within the rules of a prison, can on complying with the provisions of the acts made for the relief of insolvent debtors, be so discharged from imprisonment as to go beyond the limits of the rules without a breach of the condition of said bond; to remove such doubts in all cases happening hereafter,

Doubts as to a prisoner within the rules.

Be it enacted, &c. That if any debtor shall hereafter take the benefit of the rules of a prison, and such debtor shall be minded to seek the liberation of his person under the acts made for the relief of insolvent debtors, it shall and may be lawful for such debtor to go into close

Allowing a prisoner within the rules to take the benefit of the insolvent act.

prison, and it shall be the duty of the sheriff of the county to re-commit the said debtor to close prison, after which the said debtor may claim the benefit of all the provisions which have been made by law for the relief of insolvent debtors; and a discharge from imprisonment agreeably to the provisions aforesaid, shall be deemed a due discharge by process of law; within the meaning of the bond given for keeping within the rules of the prison.

CHAP. 965.

An act concerning solicitors of the courts of pleas and quarter sessions.

County solicitors' fees—to be paid by defendants on conviction.

Be it enacted, &c. That from and after the passing of this act, the county solicitors of each county shall not be entitled to receive any fees in any case whatever unless on conviction of the defendants of the crimes set forth in the bills of indictment respectively; and in all cases of conviction, the said solicitors shall receive the sum of four dollars for each defendant convicted, from said defendant respectively, and in no other way whatever: Any law to the contrary notwithstanding.

CHAP. 965.

(a See 1741, c. 32, 1779, c. 160, 1793, c. 395.) An act to amend an act passed in the year 1741, entitled an act for regulating weights and measures. (a)

Weights and measures to be examined every two years.

1. *Be it enacted, &c.* That every trader buying or selling by weights and measures, and every miller, shall, before the first day of May next, and at least once in every two years thereafter, cause their weights, measures and steelyards to be examined and adjusted by the standard keeper of the county in which such weights and measures are used, of which examination and adjustment the standard keeper shall give a certificate, stating the weights and measures by him examined and adjusted. And every trader buying or selling by weights and measures, neglecting to comply with the requisites of this act, shall forfeit the sum of fifty dollars, to be recovered in the name of the state, at the instance of the standard keeper; one half to the use of the county

Penalty.

where the offence is committed, the other half to the use of the standard keeper prosecuting therefor.

2. *Be it further enacted*, That for examining the said weights and measures, the standard keeper shall be entitled to the following fees, that is to say : for each pair of steelyards, fifteen cents ; for every weight of half a pound and upwards, five cents ; for every set of weights below half a pound, including one piece of each denomination, five cents ; for every yard-stick or other measure of cloth, five cents ; for every bushel, half bushel, peck or other measure, used in measuring grain, meal or salt, ten cents ; for each measure for liquors, three cents. And the standard keeper shall, when practicable, mark by stamp or brand, the weights and measures found or made to agree with the standard, as by law is now directed.

Standard keeper's fees.

3. *Be it further enacted*, That the eighth and ninth sections of the act entitled, " An act for regulating weights and measures," be and they are hereby repealed.

Former sections repealed.

CHAP. 965.

An act directing the manner of taking and certifying affidavits in certain cases.

1. *Be it enacted, &c.* That the clerks of the courts of pleas and quarter sessions, the clerks of the superior courts of law, and the clerks and masters of the courts of equity, are authorised and empowered to take and certify affidavits to be used before any justice of the peace, judge, or court of this state ; and that the affidavits to be taken, be certified under the hands of the said clerks and clerks and masters respectively ; and if to be used out of the county where taken, also under the seal of the court of which they are respectively clerks and clerks and masters.

Clerks of courts to take and certify affidavits.

2. *And be it further enacted*, That the said clerks and clerks and masters may receive for each affidavit by them taken as aforesaid, four shillings ; and if the seal of the court shall be necessary thereto, the fee for affixing the seal to other papers.

Their fees.

CHAP. 965:

(See 1814, c.
872, 1819, c.
988 and 999.)

An act to provide a revenue for the payment of the civil list and contingent charges of government for the year one thousand eight hundred and nineteen.

Sheriffs allowed
\$3 per day
while settling
with treasurer.

Be it enacted, &c. That the sheriffs of the several counties in this state shall in future, be allowed the sum of three dollars for every day they may be engaged in making their settlements with the treasurer, to be paid by the treasurer.

[The other sections provided for by subsequent acts.]

CHAP. 966.

An act laying duties on sales at auction of merchandise.

Tax of 2 1-2 per
cent. on auc-
tions.

1. *Be it enacted, &c.* That from and after the first session of the court of pleas and quarter sessions of the several counties in this state which shall be holden after the first day of February, there shall be levied, collected and paid for the use of the state, upon all sales by way of auction as hereinafter described, which shall be made within this state, a rate and duty of two dollars and fifty cents for every hundred dollars of the purchase money arising by sale at auction of goods, wares and merchandise, (a) and the same rate for any greater or less sum, except as hereinafter excepted; the respective rates and duties to be paid by the auctioneer or person making such sales at auction, out of the money arising from each and every sale: *Provided always*, that nothing in this act contained, shall extend to any sale by auction of goods, wares and merchandise, made pursuant to or in execution of any rule, order, decree, sentence or judgment of any court of the United States, or of any court of this state; or made in consequence of any general assignment of property and effects for the benefit of creditors, or made by or on behalf of executors, administrators or guardians, or made pursuant to the direction of any law of this state, or of the United States, touching the collection of any tax or duty or of any wrecked goods.

(a See 1819, c.
993.)

To be paid by
auctioneers.

Exceptions.

Appointment of
auctioneers.

2. *Be it further enacted*, That the several courts of pleas and quarter sessions of this state at any session of said courts in the year eighteen hundred and nine-

teen, may appoint such number of persons, not more than three in each county, as they shall think fit to be auctioneers in said county, until the term of appointing sheriffs in said counties, and the said courts shall thereafter annually at the term of appointing sheriffs (a majority of the justices of said county being present) appoint not more than three persons to exercise the trade or business of auctioneers in their said counties for the term of one year, each of such persons giving bond to the state of North-Carolina, with one or more securities to the satisfaction of said court, in the sum of two thousand dollars, with condition that he will, on the first day of April, July, October and January, in each year while he shall continue to exercise the said trade or business, render to the clerk of said court, a true and particular account in writing of the monies or sums for which any goods, wares or merchandise, made liable to duty by this act, have been sold at every sale at auction by him made, and of the several articles, lots and parcels which he shall have sold, the price of each article, lot or parcel in every such sale, by whom brought, so long as he shall continue to exercise his said trade or business; and also shall pay such sums of money as shall be due to the state upon the said sales, according to the true intent and meaning of this act, which sums he is hereby authorised and directed to retain out of the produce of such sale made as aforesaid. The said auctioneer at rendering his account to the clerk of the court as herein required, shall take and subscribe an oath on said account, that the same is true to the best of his knowledge and belief, and shall annually, in the month of October, pay to the public treasurer the amount of duties upon sales at auction by him made in the preceding year, and shall be entitled to retain a commission of five per cent, upon the amount thereof for his trouble in and about the same.

Their oath.

To settle with treasurer in October.

8. *And be it further enacted*, That the clerks of the several courts of pleas and quarter sessions shall annually, in the month of October, transmit to the comptroller of this state an abstract of the accounts returned to his office by the several auctioneers in the preceding year, and it shall be the duty of the comptroller to charge each auctioneer for the amount of the duty due to the state upon such accounts by the auctioneers respectively; and if any auctioneer shall fail to pay the

Duty of clerks and comptroller herein.

Judgment against delinquents.

Penalty for acting as auctioneer, without appointment.

Auctioneers' compensation.

Repeal of former acts.

public treasurer at the time herein before appointed the sums due from him to the state upon his accounts as aforesaid, the treasurer is hereby required to move for, and the courts of this state are authorised and required to render judgment against said delinquent auctioneer and his securities, as by the existing laws judgment may be had without notice against delinquent revenue officers.

4. *Be it further enacted.* That from and after the first sessions of the court of pleas and quarter sessions of the several counties in this state, which shall be holden after the first day of February next, no person shall exercise the trade or business of an auctioneer by the selling of any goods, wares or merchandise whatsoever by auction, or any other mode of sale whereby the best or highest bidder is deemed to be the purchaser, unless such person shall be appointed an auctioneer pursuant to this act, on pain of forfeiting for every such sale at auction the sum of two hundred dollars: *Provided however,* that nothing herein contained shall be construed to require sales to be made by auctioneers, of any estate, goods, chattels or other thing which by this act are not made liable to duty, or are exempted from duty.

5. *Be it further enacted.* That the auctioneers appointed under this act, shall be entitled to ask and receive such compensation from the persons for whom they may make sales at auction as may be agreed on between them, not exceeding two and a half per cent. on the amount of such sales.

6. *Be it further enacted,* That all acts of the General Assembly heretofore passed authorising the appointment of auctioneers and appropriating the duties levied on sales at auction, be, and they are hereby repealed.

7. *Be it further enacted,* That this act shall be in force from and after the ratification thereof.

CHAP. 967,

(a Sec 1816, c. 908.)

An act to extend the time for the registration of grants, mesne conveyances, powers of attorney, bills of sale and deeds of gift.(a)

Two years allowed.

1. *Be it enacted, &c.* That all grants for lands in this state, all deeds of mesne conveyance, powers of attorney under which any lands, tenements or hereditaments

have been, or may be conveyed, and all other powers of attorney which require to be proven and registered by any former act of this state, all bills of sale, deeds of gift, already proved as deeds of conveyance are required to be proven, or which may hereafter be proven, shall and may, within two years after the passing of this act, be admitted to registration, under the same rules, regulations and restrictions heretofore appointed by law; and said grants, deeds, mesne conveyances, powers of attorney, bills of sale and deeds of gift shall be as good and valid as if they had been proven and registered within the time heretofore allowed; any law to the contrary notwithstanding.

2. *And be it further enacted.* That all grants or deeds issued from the office of the late earl Granville, and not already registered, may have a further time of twelve months allowed for registration, and the proof necessary thereto, shall be by parity of hands, which shall be good and valid in law. Any law to the contrary notwithstanding.

Earl Granville's deeds allowed 12 months for registration, and to be proved by parity of hands.

CHAP. 968.

An act to repeal so much of the fourth section of an act passed in the year one thousand eight hundred and fourteen, concerning divorce and alimony, as requires the interference of the Legislature to ratify the judgment, sentence or decree of the superior courts.(a)

(a See 1814, c. 869.)

Be it enacted, &c. That so much of the fourth section of the above recited act, as requires the sanction of the legislature before any judgment, sentence or decree of the superior courts can be final in dissolving the bonds of matrimony, be and the same is hereby repealed; and the judgment of the superior courts in such cases, shall be conclusive as other judgments of the said court, saving to the parties a right of appeal as in other cases decided in said courts.

Judgment in superior court conclusive.

CHAP. 969.

An act granting further time to perfect titles to lands within this state.

(See 1816, c. 926)

1. *Be it enacted, &c.* That the time for perfecting titles to all entries of vacant lands made within this state, and

Allowed till 1821.

entered since the year one thousand eight hundred and ten, and upon which the purchase money shall be or may have been paid in due time, shall be and the same is hereby extended to the first day of January, one thousand eight hundred and twenty-one: *Provided*, that nothing contained in this act shall affect the rights of persons claiming under grants bona fide issued since the year 1810.

2. *And be it further enacted*, That this act shall take effect from and immediately after the ratification thereof.

CHAP. 970.

An act fixing the sum hereafter to be paid to the state for vacant lands.

Ten cents per
acre.

Be it enacted, &c. That ten cents per acre shall be paid to the treasurer for every acre of land hereafter entered in this state; any law to the contrary notwithstanding.

CHAP. 971.

An act to vest in the superior courts of this state, the exclusive power of emancipating slaves.

Power of eman-
cipating slaves
vested exclu-
sively in the su-
perior courts.

1. *Be it enacted, &c.* That from and after the passing of this act, the power of emancipating slaves be and is hereby exclusively vested in the superior courts of law of this state: and to be governed by the same rules, regulations and restrictions as are now prescribed by law, relative to the emancipation of slaves by the several county courts.

Repeal of for-
mer acts.

(a See 1796, c.
453.)

2. *And be it further enacted*, That so much of the existing laws as authorise the courts of pleas and quarter sessions of this state to emancipate slaves, be and the same is hereby repealed and made void. (a)

CHAP. 972.

An act concerning the trial of slaves in capital cases.

Right of chal-
lenge.

Be it enacted, &c. That from and after the passing of this act, all slaves on trial for capital offences, shall by themselves, masters or counsel, have the same right to

challenge jurors, that a free man is now entitled to by law, (a) and that all laws coming within the meaning (a See 1777, c. 115, s. 85.) and purview of this act, are hereby repealed.

CHAP. 973.

An act to change the compensation of the attorney-general, solicitor-general, and the solicitors of the state, in the superior courts, for their services in said courts.

1. *Be it enacted, &c.* That all acts and clauses of acts whereby a compensation for the term is given to the attorney-general, solicitor-general and solicitors of the state, in the superior courts, for their services in the superior courts, be and the same are hereby repealed. Salaries to attorney & solicitor-general taken away.

2. *And be it further enacted,* That the attorney-general shall receive a salary of one hundred dollars as a full compensation for his attendance on the supreme court; and that the attorney-general and solicitors shall receive the following compensation, viz. on every indictment for a felony whereupon the defendant shall be convicted in a superior court, there shall be taxed the sum of ten dollars; and on every indictment for a misdemeanor whereupon the defendant shall be convicted in a superior court, there shall be taxed the sum of five dollars as a fee to the prosecuting officer in behalf of the state, to be paid by the party convicted, and in no event by the state or by the county in which the prosecution was instituted; and that henceforth no fee shall be taxed for the prosecuting officer on any indictment whereon the defendant shall not be convicted. Their compensation.

CHAP. 974.

An act to prevent negro slaves from selling spirituous liquors.

Be it enacted, &c. That in future if any negro slave shall presume to sell any spirituous liquors by retail or otherwise, such slave so offending, shall be taken before a magistrate of such county, where he may have committed such offence, and if found guilty, shall receive not exceeding thirty-nine lashes, on his or her bare back. Penalty, 39 lashes.

CHAP. 975.

(a See 1817, c. 953.)

An act to amend the second section of an act passed at the last session of the General Assembly, entitled "an act to revise and amend the laws respecting wrecks and wrecked property in this state." (a)

(b These words are omitted in the former act.)

1. *Be it enacted, &c.* That the words contained in the latter clause of the second section of the above recited act, to-wit, (b) "except such part thereof as may be in a damageable and perishable situation as to require an immediate sale, be and the same are hereby repealed and made void."

Carteret divided into four districts.

2. *And be it further enacted.* That the county of Carteret shall be divided into four districts, to-wit, the first or easternmost district, to commence at the Carrituck line and thence to include Ocracock Island, (so called;) the second district from Ocracock island to Cedar inlet; the third district from Cedar inlet to old Topsail inlet; the fourth from old Topsail inlet to the Ocaslo county line:—and for the additional district hereby created, a commissioner of wrecks shall be appointed, commissioned and qualified, and shall enter into bond as is prescribed for other commissioners of wrecks in the act herein before recited.

Commissioner for the new district.

CHAP. 976.

(See 1784, c. 227, s. 7.)

An act in addition to the acts concerning public roads.

Earth to be taken for causeways.

1. *Be it enacted, &c.* That whenever earth shall be needed for raising or covering a causeway on a public road, and the same cannot be conveniently procured on either side of the causeway, it shall and may be lawful for the overseer of the road to take the earth required from any adjoining land, and he shall not be liable to any action or penalty therefor.

Owner of the land may petition county court for redress.

2. *And be it further enacted.* That the owner of the land thus used may, if he deem himself injured, file his petition in the court of pleas and quarter sessions of the county wherein the causeway thus raised or covered is situate, and pray indemnification; and it shall be the duty of the court after a proper examination of the facts, to make the petitioner such compensation out of the county funds as shall be adequate to the injury sustained. *Provided*, that this act shall in no wise be con-

strued to apply to the lands adjoining or contiguous to the causeway or great road leading across Eagles' island to Wilmington.

CHAP. 977.

An act to amend an act passed in the year one thousand eight hundred and sixteen, "entitled an act for removing logs, shoals and other impediments in the Tar river, below the town of Washington, in the county of Beaufort, and for other purposes."(a)

(a See 1816, c. 932.)

1. *Be it enacted, &c.* That the collector of the customs of the United States for the port of Washington, in the county of Beaufort, be and he is hereby authorised and required to collect and receive from the master, owner, or agent of any and every vessel arriving at, and departing from said port, the following duties on the tonnage of the said vessel; that is to say, upon each ton, above sixty tons, if a registered vessel, the sum of eight cents: and upon each ton above fifty, if a vessel not registered, the sum of two cents; and if the master, owner or agent of any vessel arriving at, or departing from the said port, shall refuse or neglect to pay the said duty, he shall forfeit the sum of one hundred dollars, to be recovered with costs of suit by said collector, and in his name, in any court of this state: which sum when recovered, shall be applied to the same uses with the tonnage duties imposed by this act.

Duties on tonnage.

2. *Be it further enacted,* That the first section of the act recited in the caption to this act, be and the same is hereby repealed: and this act shall take effect as soon as the consent of the congress of the United States is obtained thereto: and his excellency the governor is hereby requested to take measures to obtain the same.

Section of former act repealed.

Consent of congress to be obtained.

CHAP. 978.

An act to repeal the second section of an act, passed in the year 1816, c. 4, entitled an "act making it the duty of sheriffs to serve notices of the clerks of courts, and clerks and masters in equity to parties concerned to attend on the days of reference at making up reports, and for other purposes."(b)

(b See 1816, c. 902.)

Whereas much inconvenience and unnecessary expense have arisen to parties at law in consequence of the

mileage allowed sheriffs by the second section of the above recited act.

Section of former act repealed.

Sheriff's fee same as for arrest.

1. *Be it enacted, &c.* That from and after the passage of this act, the second section of the above recited act be and the same is hereby repealed and made void.

2. *Be it further enacted,* That the sheriffs severally within this state, shall be entitled to the same fees for their services prescribed in the first section of the above recited act, as are now allowed by law to sheriffs for arrests.

CHAP. 979.

(See 1816, c. 920.)

An act to amend an act passed in the year one thousand eight hundred and sixteen, entitled, an act concerning the navigation of Tar river.

Commissioners appointed.

Be it enacted, &c. That Jas. Hill, Wm. Moore, Jno. J. Inge, John D. Hawkins and Nathan Patterson, be, and they are hereby appointed commissioners for opening books to receive subscriptions to the amount of seventy-five thousand dollars, for improving the navigation of Tar river, and of the several rivers and creeks which run into the same. And the said commissioners or a majority of them shall prepare books for receiving the said subscriptions, and shall open the same on or before the first day of April next, at such places and under the direction of such persons as they shall designate for that purpose: which books shall remain open until the first Monday of June next, at which time the

Opening books.

several persons, under whose direction books shall be opened as aforesaid, shall return the same to the said commissioners in the town of Louisburg; and on the said first Monday of June next, there shall be a meeting of the subscribers in the town of Louisburg, and such meeting may be continued from day to day until the business be finished. If it appear to the said commissioners, upon the return of the said books, that the sum of \$30,000 has been subscribed, the said subscribers, their heirs and assigns, from the time of their said first meeting, shall be, and they are hereby declared to be incorporated into a company, by and under the name of "the Tar River Navigation Company," and as such may sue and be sued, plead and be impleaded, defend and be defended, have perpetual succession and a com-

mon seal : and such of the said subscribers as shall be present at the said meeting or a majority of them, are hereby empowered and required to elect a president and five directors, for conducting the said undertaking and managing all the said company's business and concerns for and during the term of one year, and thence until the next general meeting of the stockholders ; and in counting the votes at all general meetings of the said company, each member shall be allowed one vote for every share as far as ten shares ; and one vote for every five shares above ten shares, by him or her holden at the time in the said company : and any proprietor, by writing under his or her hand, executed before a subscribing witness and acknowledged or proven before a justice of the peace, may depute any member to act as proxy for him or her at any general meeting or meetings, and the presence and acts of such proxy shall be as effectual to all intents and purposes, as the presence and acts of his or her principal could or might be.

Election of officers.

2. *And be it further enacted*, That the act passed in the year one thousand eight hundred and sixteen, entitled "An act concerning the navigation of Tar river," be and the same is hereby revived and declared in force, except so far as the same is altered by this act, and except so much of the said act as gives power and authority to said president and directors to open and improve said river, or the water courses emptying into said river, below Tarborough.

Revival of former act.

3. *And be it further enacted*, That books of subscription for stock in said capital, shall be opened in the town of Tarborough, under the direction of Joseph Bell, Spencer D. Cotton and Lewis D. Wilson, which subscription shall be made, and the books thereof opened and returned in the same manner as is prescribed in the first section of this act.

Books opened in Tarborough.

CHAP. 980.

An act concerning constables.

1. *Be it enacted, &c.* That every person hereafter appointed a constable shall be required to give bond with sufficient securities in the sum of two thousand dollars, payable to the governor of the state, and his successors

To give bond in \$2000.

(Sec 1786, c. 253, s. 8, 1804, c. 650, s. 2.)

Same remedies against constables as formerly.

Penalty for acting without authority.

in office, which bond shall be conditioned as well for the faithful discharge of his duty as constable, as for his diligently endeavouring to collect all claims put into his hands for collection, and faithfully paying over all sums thereon received, either with or without suit, unto the persons to whom the same be due.

2. *And be it further enacted*, That on every bond given as aforesaid, and for all monies received on claims as aforesaid, there shall be the same remedy in all respects as may be now had on bonds given in the mode heretofore prescribed, and for monies received in virtue of the office of constable.

3. *And be it further enacted*, That if any constable, after the expiration of the term for which he has been appointed, shall presume to act as such in any case wherein he is not by law authorised, he shall be liable as for a misdemeanor, and on conviction thereof shall be fined and imprisoned at the discretion of the court.

CHAP. 981.

(a Sec 1741, c. 35.)

An act to authorise the county courts in this state to direct the sheriff to sell any slave that may be taken up and confined in any jail as a runaway, after certain length of imprisonment, and public notice. (a)

Six months notice to be given.

1. *Be it enacted*, &c. That whenever any negro slave shall be taken up in this state as a runaway, and confined in any jail for the space of twelve months, and the apprehension and confinement of said slave has been advertised in the State Gazette at least six months, and the owner or owners does not apply to prove property in said time, then it shall be lawful for the court of pleas and quarter sessions of the county in which said runaway is confined, to command their sheriff to expose said negro slave to public sale for ready money, giving three months notice in some public newspaper in this state, at the court-house door, and at two other public places in the said county, of the time and place of sale, and of the circumstances under which said slaves are to be sold.

1-2 per cent. allowed.

2. *And be it further enacted*, That the said sheriff shall be allowed two and a half per centum on the amount of sales made under this act.

Title of the slave and appro-

3. *And be it further enacted*, That the bill of sale of the slave shall vest in the purchaser an absolute right to said slave; and said sheriff is hereby directed to pay

over the residue of the amount of sales, after deducting his commissions and prison charges, to the county trustee, to be applied as county taxes for the use of said county. prison of the money.

4. *And be it further enacted*, That upon petition of the owner of said slave or slaves to the court of the county where the proceeds of said sale are deposited, and upon satisfactory evidence of the right of property of said petitioner or petitioners to said slave, the said court shall direct the payment to the said petitioner or petitioners of the sum paid into the county treasury, taking bond and security from such petitioner or petitioners when they think proper, payable to the chairman of said courts and his successors in office, to refund said money with interest to the real owner of said slave, should it thereafter appear that such petitioner or petitioners were not the owners of such slave. Owner may petition county court for the money, &c.

5. *And be it further enacted*, That all acts and clauses of acts coming within the meaning and purview of this act, be and they are hereby repealed.

CHAP. 982.

An act to amend an act passed in the year one thousand eight hundred (See 1812, c. and twelve, entitled "An act relative to the power of courts of 847, 1819, c. equity in cases of partition," and for other purposes. 1026.)

1. *Be it enacted, &c.* That whenever any joint tenant or tenants in common, or the guardian of such, shall on oath or affirmation, and by a petition or bill, to which all the joint tenant or tenants in common shall be made parties, state to a court of equity that the lands of such joint tenant or tenants in common are required for public purposes, and that the interest of the proprietors requires that a sale should be made thereof; if the said alleged facts shall be ascertained to be true by the verdict of a jury duly empanelled to try the same; and if the said verdict shall receive the sanction of the said court, it shall then be lawful for the said court to order a sale of the said lands, or of such parts thereof as it may judge necessary, in such manner and on such terms as it shall deem expedient; and it shall be the duty of the said court to direct that the part of the proceeds of such sale, to which any infant, feme covert or person non compos may be entitled, to be so invested as that

Sale of land.

the same shall be effectually secured to the person so entitled, or to his or her real representatives.

Deed of clerk
and master
good.

2. *Be it further enacted*, That in all cases arising under this act, or which have arisen or shall arise under the act passed in the year one thousand eight hundred and twelve, entitled "An act relative to the power of courts of equity in cases of partition," the deed of the clerk and master of the court ordering the sale, shall be held, deemed and taken as good and sufficient to convey to the purchaser or purchasers, such title, interest and estate in the lands, tenements and hereditaments ordered to be sold, as the respective tenants in common or joint tenants had therein: which deed shall recite in substance the petition of the said tenants, and the decree of the court, ordering the sale.

For persons la-
bouring under
incapacities
guardians may
be appointed.

3. *Be it further enacted*, That in all cases now pending or which may hereafter be instituted, in any of the courts of equity, where any of the parties defendants is an infant, or person non compos, and resides out of this state, having no guardian residing within the state, it shall be lawful for the said courts to appoint a guardian to such infant or person non compos, to defend his or her interest in the suit to which he or she may be defendant; provided nevertheless, that the said infant or person non compos, may at any time within three years after the decree shall be made in said suit, appear in said court, and petition to be heard with respect to the matter of such decree: and such proceedings, decree and execution may be had thereon as there might have been in case the proceedings had been then newly begun, or as if no former decree or proceedings had been in the same cause.

CHAP. 983.

An act concerning estates in lands, tenements and hereditaments held for the life of another person.

Life estate in
lands may be
devised, &c.

1. *Be it enacted, &c.* That every person who now is or hereafter shall be seised of an estate in lands, tenements and hereditaments for the life of another person, may devise the said estate by a last will and testament, executed with the formalities required for the devise of real property, and should no such devise be made, and

the said estate for the life of another shall come to the heir or heirs of the tenant for life, by special occupancy, then shall the same be chargeable in the hands of such heir or heirs as assets by descent.

2. *And be it further enacted.* That if any person shall die seized of an estate in lands, tenements or hereditaments, for the life of another, and shall not by last will, have devised the same as aforesaid, and the said estate shall not come to the heir or heirs of the tenant for life by special occupancy, then the said estate shall vest in the executors or administrators of the said tenant for life, and shall be deemed personal assets in their hands for the benefit of the creditors, legatees and distributees of the deceased.

And chargeable as assets in hands of executors and administrators.

CHAP. 984.

An act to amend an act passed in the year one thousand eight hundred and sixteen, entitled an act to compel retailers of spirituous liquors by the small measure, to take a license from the county court, and for other purposes.(a)

(a See 1816, c. 906.)

Be it enacted, &c. That from and after the passing of this act, it shall be the duty of the clerks of the several courts of pleas and quarter sessions, at every term of the said courts, to furnish the prosecuting attorney of their respective counties, with a list of all such persons within their county, as have within the term of twelve months last past, obtained a license to retail spirituous liquors by the small measure, agreeably to the direction of the first section of the above recited act, which list shall be by the prosecuting attorney, laid before the grand jury, for the purpose of instructing them as to the persons within their county who are, or are not liable to be presented under the said act.

List of delinquents to be furnished the attorney.

Attorney's duty

CHAP. 985.

An act declaring the statute passed in the twenty-first year of James the first, entitled an act to prevent the destroying and murdering of bastard children; to be no longer in force in this state.

1. *Be it enacted, &c.* That the statute enacted in the Statute James I. twenty-first year of the reign of James the first, entitled repealed.

"an act to prevent the destroying and murdering of bastard children," be no longer in force in this state.

Mother of bastard concealing the death, guilty of misdemeanor.

2. *Be it further enacted*, That if any woman be delivered of issue of her body, male or female, which, being born alive, should by the laws of this state be a bastard, and she endeavours privately, either by drowning or secret burying thereof, or any other way, either by herself or the procuring of others, so to conceal the death thereof, as that it may not come to light, whether it were born alive or not, but be concealed, in every such case, the said mother so offending, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine not exceeding five hundred dollars, and an imprisonment not exceeding twelve months.

Superior court shall have exclusive jurisdiction.

3. *And be it further enacted*, That the superior courts of law within this state shall have exclusive jurisdiction of the offence created by this act.

Mother punished by the common law.

4. *And be it further enacted, and provided*, That nothing in this act contained, shall be construed to prevent the mother who shall be guilty of the murder of her illegitimate child, from being liable to prosecution, conviction and punishment thereof, agreeably to the principles of the common law.

CHAP. 986.

(See 1806, c. 693, s. 3.)

An act to alter the times of holding the superior courts of law and equity, in the counties of Carteret and Craven, and to extend the time for holding the superior courts of Greene.

Carteret and Craven superior courts when held.

Be it enacted, &c. That from and after the next terms of the superior courts of Carteret and Craven, the said superior court shall be holden respectively on the days following: that is to say, the superior court of Carteret on the Thursday following the third Monday after the fourth Mondays of March and September in every year; and the superior court for the county of Craven on the fourth Mondays after the fourth Mondays of March and September in every year; any law or usage to the contrary notwithstanding.

CHAP. 987.

An act to alter the times of holding the superior courts of law and equity in the first judicial circuit. (See 1806, c. 693, s. 3.)

1. *Be it enacted, &c.* That the superior courts of law and equity in the first judicial circuit in the several counties thereof, shall hereafter be opened and held on the following times hereinafter expressed, and each respective court shall continue in session one week, unless the business of the court shall be sooner determined, viz: In the county of Tyrrell, the said courts shall be held on the first Monday in March and September; in the county of Washington on the second Monday in March and September; in the county of Bertie on the third Monday in March and September; in the county of Hertford on the fourth Monday of March and September; in the county of Gates on the first Monday after the fourth Monday in March and September; in the county of Chowan on the second Monday after the fourth Monday in March and September; in the county of Perquimons on the third Monday after the fourth Monday in March and September; in the county of Pasquotank on the fourth Monday after the fourth Monday in March and September; in the county of Camden on the fifth Monday after the fourth Monday in March and September; in the county of Currituck on the sixth Monday after the fourth Monday in March and September.

Times of holding superior court in first circuit.

2. *And be it further enacted,* That all suits now pending in any of the said courts, and all process which has issued, or may hereafter issue, returnable to any of the said courts, shall stand adjourned to, and be returnable at the times herein established for holding said courts respectively.

Process returnable.

3. *Be it further enacted,* That it shall be the duty of the sheriff of each of the said counties immediately after the ratification of this act, to give notice by public advertisement at the court-house of his county of the alteration established by this act of the time of holding the court in such county.

Sheriffs' duty.

Read three times and ratified in General Assembly, 2
December 25, A. D. 1818. 5

B. YANCEY, S. S.
JA. IREDELL, S. H. C.

A Copy.—Wm. HILL, Secretary.

John Branch,
esq. governor.

At a General Assembly, begun and held at Raleigh, on the twentieth day of November, in the year of our Lord one thousand eight hundred and nineteen, and in the forty-fourth year of the independence of the said state.

CHAP. 988.

(See 1818, c.
965.)

An act to provide a revenue for the payment of the civil list and contingent charges of government, for the year 1820.

Tax of six cents
on every 100
value.

1. *Be it enacted, &c.* That for the year 1820, there shall be levied and collected from all the real property with the improvements thereon, within this state, subject to taxation, the sum of six cents on every hundred dollars value thereof.

On stud horses
and jacks.

2. *Be it further enacted,* That a tax on all stud horses and jack asses within this state, of the full sum which the owner or keeper of such stud horse or jack ass shall ask, demand or receive for the season of one mare, shall be levied, collected and accounted for; and all stud horses and jack asses who are not stationed in any one county, and all those that may be brought from another state, to stand for a less term than the season, in this state, shall pay the sheriff of some county the amount of the season, as soon as the season of such horse or jack ass shall commence; or produce a certificate from a justice of the peace of the county from whence such horse or jack ass came (if in this state) that such stud horse or jack ass has been listed for taxation; and it shall be the duty of the sheriff to collect the said tax, and on failure of the owner of such horse or jack ass to pay the same when demanded, it may be lawful for the sheriff to distrain for the same, by seizing the said horse or jack ass and make sale thereof for the tax.

(On pedlers.

3. *And be it further enacted.* That each and every person who shall peddle in any county in this state, and not on a navigable stream, goods, wares or merchandise, not of the growth or manufacture of this state, or jewelry, shall pay to the sheriff of each and every county, in which he, she or they shall so peddle or hawk goods, wares or merchandise, or jewellery, the sum of twenty dollars on every cart, waggon or other vehicle employed in the transportation of the said goods, wares or merchandise: *Provided,* that no license to peddle shall authorise such pedler to sell goods at auction: *Provided,* that should two or more persons employ one cart, wag-

Auction sales by
pedlers prohibited.

gon or other vehicle, to transport their goods, wares or merchandise, each and every of them shall pay the aforesaid tax on said cart, waggon or other vehicle by them employed, nor shall any thing in this act be construed to authorise two or more persons, under the pretence of being partners in trade, to peddle goods, wares or merchandise under the same license; which tax shall be accounted for by the sheriff in like manner as other taxes: and on paying such tax and obtaining a receipt therefor, such person shall be authorised and permitted to hawk and peddle goods, wares or jewellery, as aforesaid, in such county, and no other, for the term of one year thereafter; and every person who shall peddle goods, wares and merchandise not the growth or manufacture of this state, except vegetables or other provisions of the produce of the United States, on any navigable waters in this state, shall pay the sheriff of each and every county in which he shall so hawk or peddle, fifty dollars, as a tax to the state, to be levied and accounted for as above: and on payment thereof, shall be authorised and permitted to peddle goods as aforesaid, in such county and no other, for the term of one year thereafter; and each and every person who shall peddle in any county without previously having paid the tax thereon, and having obtained a license as hereinafter directed, or who shall refuse or neglect upon the request of the sheriff or his lawful deputy, or any justice of the peace, to shew a license therefor, shall be liable to forfeit two hundred dollars, to be collected by the sheriff of the county where such offence shall be committed, by distress and sale of the property of such delinquent, and to be applied one half to the use of the state, and the other half to the use of the sheriff: *Provided nevertheless*, that nothing in this act contained shall extend to tax persons who sell books only; and *provided* nothing herein contained shall exempt the person or persons thus licensed from being liable to the duties imposed on those who shall sell goods, wares and merchandise at auction. Penalty \$200.

4. *And be it further enacted*, That the comptroller shall issue to the several sheriffs, blank licenses to peddle goods within this state, who shall, upon application of any person or persons desirous to hawk and peddle goods, countersign and issue the same to the persons so applying, upon his paying the taxes so imposed, and Mode of issuing licenses to pedlers.

that all licenses so issued by the comptroller, and delivered to any sheriff, shall stand as a charge against said sheriff for the amount of said licenses; and the sheriff shall be entitled in the settlement of his public accounts to a credit for all licenses not issued and countersigned, which he shall return to the comptroller; and that the comptroller shall issue and deliver to the members of the General Assembly to be delivered to the respective sheriffs, not less than twenty licenses for each county before the rise of the General Assembly: and should any sheriff who shall have received any licenses as aforesaid, resign, or the term of his service have expired without having issued the licenses so delivered to him, he shall deliver the same to his successor, and the receipt of such successor shall be allowed said sheriff in his settlement with the comptroller.

On wholesale
and retail stores.

5. *And be it further enacted*, That every merchant who shall sell goods, wares and merchandise not the growth and manufacture of this state, in any retail store, shall pay the following tax, to-wit: if the amount of sales in any one year shall be between four hundred and two thousand dollars, a tax of six dollars; if between two thousand dollars and five thousand dollars, a tax of eight dollars; if the amount of his sales as aforesaid shall be between five thousand and ten thousand dollars, a tax of twelve dollars; if the amount of his sales as aforesaid shall be between ten thousand and fifteen thousand dollars, a tax of fifteen dollars; and if the amount of his sales as aforesaid, shall be above fifteen thousand dollars, a tax of twenty dollars; and wholesale merchants shall pay a tax of twenty-five dollars; and every such merchant shall give such store or stores in the list of his taxable property, under the same rules and regulations as other taxable property is given in, and the tax thereon shall be levied, collected and accounted for in the same manner as other taxes: *Provided always*, that no retailer of spirituous liquors by the small measure, shall be liable to pay in addition to the tax imposed on said retailers, the tax also imposed on stores, unless such retailers shall sell goods, wares and merchandise other than liquors to the amount herein stated; and *provided also*, that the sheriff may be entitled to demand and collect the tax imposed by this section from such persons also, as keep stores for a less time than one

year and shall sell thereout the amount herein specified, although such stores were not open the first day of April.

6. *And be it further enacted.* That the owners of billiard tables shall hereafter give them in in the same manner as other taxable property, and shall pay for each billiard table, a tax of five hundred dollars; and after the first day of April next, no billiard table shall be erected or kept up until said tax shall be paid to the sheriff of the county in which said table is erected or kept up; and a license to erect or keep up the same shall be first granted by said sheriff; and if any table is erected or kept up without such license, the sheriff of the county where the same is so erected or kept up, shall seize and destroy the same; and the person erecting or keeping up the said table shall be subject to indictment, and on conviction shall be fined not less than two hundred dollars, and imprisoned at the discretion of the court.

Five hundred dollars on billiard tables.

7. *Be it further enacted.* That every company of itinerant stage-players, rope-dancers and wire-dancers, and each and every itinerant person or company who shall exhibit natural or artificial curiosities of any kind or sort for a reward, shall previously to performing or exhibiting in any county in this state, pay to the sheriff thereof, twenty-five dollars as a tax to the state, to be accounted for by the sheriff as other taxes; and on paying such tax and obtaining a receipt therefor, such company or person shall be authorized and permitted to perform or exhibit as aforesaid in such county and no other, for the space of one year thereafter, and each and every itinerant stage-player, rope-dancer or wire-dancer, or exhibitor of artificial or natural curiosities, who shall perform or exhibit in any county in this state without previously having paid the tax herein directed, shall be liable to a forfeiture of one hundred dollars, to be collected by the sheriff of said county by distress and sale of the property of such delinquent, and be applied one half to the use of the state and the other half to the use of the sheriff.

On itinerant players.

8. *Be it further enacted.* That a tax of five dollars be, and the same is hereby laid on gates which have been or which hereafter may be at any time erected across any public road within this state; and the owners of such gates shall give in the same at the same time they give in their taxable property; and the tax shall be le-

Public gates.

vied, collected and accounted for in the same manner as other taxes.

Negro traders.

9. *Be it further enacted*, That all persons who shall bring negro slaves from another state into this state for sale, or shall take any negro slaves through any part of this state for sale, shall pay the sheriff of some one county, the sum of ten dollars, upon each negro slave so brought; and it shall be the duty of the respective sheriffs in this state and their deputies to collect the tax hereby imposed; but if the said person or persons shall produce to the sheriff of any one county, the certificate of the sheriff of any other county duly authenticated under the seal of the clerk of the county in which such sheriff resides, that he has paid the tax hereby imposed, he or they shall be permitted to proceed without the payment of any further tax; and it shall be the duty of the sheriff and his deputy, of each county into which any such negro slave shall be carried by any person or persons whatsoever, to seize such negro slave until the tax hereby imposed is paid, or until the person or persons in whose possession such negro slave may be, shall produce to said sheriff or his deputy, the receipt of the sheriff of some other county, duly authenticated as above, that the tax hereby imposed has been paid or until he shall produce to the sheriff or his deputy, the certificate of the clerk of some court of record of the state from which said negro slaves may have been removed, duly certified according to law, that said negro slaves are not removed for sale, which certificate shall contain the name or names of each and every negro slave so removed; and the owners or possessors of all such slaves so seized, shall pay to the sheriff or his deputy all expenses that may accrue in consequence of seising, keeping and feeding such slaves.

Poll-tax.

10. *And be it further enacted*, That for the year one thousand eight hundred and twenty, a tax of twenty cents on each and every free poll, and a tax of twenty cents on each and every black poll, shall be levied and collected, under the same rules, regulations and restrictions as poll taxes heretofore have been collected.

What polls liable for tax.

11. *And be it further enacted*, That all free males between the ages of twenty-one and forty-five years, and slaves between the ages of twelve and fifty years, shall pay a poll-tax; and all slaves shall be listed in the county wherein they reside.

12. *Be it further enacted*, That each sheriff upon settling his accounts with the comptroller, county trustee and county wardens within their respective counties for the preceding year, shall make and subscribe an affidavit that he has duly accounted in his settlement for all taxes received by him under this act, upon any occupation, article or thing not included in the list of taxable property furnished him by the clerk of his county, and shall append to the said affidavit a list of all such taxes so by him received, and the names of the persons from whom he received the same, and set forth opposite to each item the occupation, article or thing for which the said taxes were received.

Sheriff's oath
on settlement.

13. *And be it further enacted*, That in addition to the oath heretofore required to be taken by the sheriff on settling with the comptroller, said sheriff shall swear, that if he collects any delinquent tax beyond those accounted for in said settlement, he will render a true account thereof to the comptroller within one year after such collection: and if it shall be discovered that any sheriff or any person by virtue of having been a sheriff, shall collect delinquent taxes and not account for the same as herein required, such sheriff or other person shall be liable to pay four fold the amount of the sum collected and not accounted for; to be recovered in the name of the state, before any jurisdiction having cognizance thereof.

(See 1791, c.
354, s. 6.)

His oath to ac-
count for delin-
quent tax.

CHAP. 989.

An act to create a fund for internal improvements, and to establish a board for the management thereof.

1. *Be it enacted, &c.* That a fund shall be, and the same is hereby created, to be denominated "the fund for internal improvements," and to be applied exclusively to the internal improvement of this state, unless the necessities of this state shall render it necessary for some future legislature to apply the said fund or part thereof to some other purposes of state.

Proceeds of the
Cherokee land
pledged as a
fund.

2. *Be it further enacted*, That the said fund shall consist of the nett proceeds of the sales of the lands lately acquired by treaty from the Cherokee indians. (a)

(a See post, c.
997 and c. 1024,
s. 6.)

3. *Be it further enacted*, That for the purpose of preserving and improving this fund, and of disbursing such

Board incorpo-
rated.

portions of it as the General Assembly may from time to time direct, to be applied to any object of internal improvement; it shall be, and the same is hereby vested in a corporate body, to be styled "the president and directors of the board for internal improvements," in which name they shall have a common seal and perpetual succession, subject to the limitation hereinafter provided; shall be capable of suing and being sued, pleading and being impleaded, and shall have and enjoy all the rights and privileges of a corporation.

The governor
president. *ex of-
ficio.*

4. *Be it further enacted.* That the governor of the state for the time being, shall be *ex officio* president of the board for internal improvements, that the directors, a majority of whom shall constitute a board for the transaction of any business, shall consist of six commissioners, one to be chosen from each of the present judicial circuits of this state.

Directors chosen
annually.

5. *Be it further enacted.* That the directors of the board for internal improvements shall be chosen annually, by joint ballot of the two houses of the General Assembly, and receive such compensation for their services as may be allowed by law, which until otherwise provided, shall be the same mileage for travelling to and from the places of sitting, and the same pay *per diem* during the continuance of their session, as is now allowed by law to members of the General Assembly.

Their pay.

President pro.
tempore.

6. *Be it further enacted.* That in the absence of the governor, the board may elect a president, *pro tempore*, from their own body, who shall preside over the deliberations of the board until the governor is enabled to attend.

Power to ap-
point an engi-
neer,

7. *Be it further enacted.* That the president and directors of the board shall have power to appoint a principal engineer of public works and such assistant engineers or surveyors as in their opinion the public service may require, which said principal engineer shall superintend and direct all the public works which the General Assembly have hitherto or shall hereafter order, direct or authorise; and the said board shall also have power to appoint a secretary to record their proceedings, and the persons so appointed shall receive for their services, such compensation as the board may allow, to be paid out of the revenue of the fund for internal improvements, whenever the same may be adequate thereto.

And secretary.

8. *Be it further enacted*, That the president and directors of the board of internal improvements, shall hold an annual meeting in the city of Raleigh, or at such other place as may be designated by law, to begin on the third Monday of November, and to continue until the business of the board be transacted; but the president of the board may at his own pleasure, or shall at the request of any three directors thereof, convene an extra meeting of the board for the transaction of any extraordinary business.

Their meetings.

9. *Be it further enacted*, That the president and directors of the board for internal improvements, may at their annual meeting, enact, alter, or amend such rules as to them may seem proper for the purpose of regulating the order of their proceedings; that they may adjourn the board for any period not exceeding six months, or when occasion shall require it, have an extra meeting at any other place than that designated by law; and shall have power to make and establish such by-laws, rules and regulations for the better ordering of the conduct of their officers, agents and servants, as to them may seem expedient: *Provided*, the same be not inconsistent with the constitution and laws of this state, or of the United States. They shall have power at any time during the recess of the legislature to fill any vacancy which may occur in their own body from death, resignation, removal, inability, or any other cause: *Provided nevertheless*, that such vacancy shall be filled by a citizen of this state, to be selected from the judicial circuit where such vacancy happened.

To make bye-laws.

And fill vacancies in their own body.

10. *Be it further enacted*, That the fund for internal improvements, subject to the order of the president and directors of the board, shall be deposited in the treasury of the state, and kept distinct and apart from all other public money; it shall be paid out or delivered by the treasurer of the state to the order of the board, certified and subscribed by the secretary and countersigned by the president: that the treasurer shall keep a fair and regular account of all such disbursements, and carefully preserve the certificates upon which the same shall have been made, and shall render an account thereof to the General Assembly at the same time at which he renders his annual account of the disbursements of the ordinary revenue: that once in every year the board of internal improvements shall depute a com-

The fund to be deposited in the treasury.

The treasurer's duty.

A committee to
examine dis-
bursements.

mittee of their body to examine the accounts of all disbursements made by order of the board during the year next preceding the annual meeting of the board, and to compare these accounts with the treasurer's books and the certificates giving authority for the payment of the several sums of money or stock entered therein.

Power to sub-
scribe for the
state to public
works.

11. *Be it further enacted*, That the president and directors of the board of internal improvements, shall be and they are hereby authorised to subscribe in behalf of the state to such public works as the General Assembly may from time to time agree to patronize, such portions of the fund for internal improvements as may be directed by law.

Record of pro-
ceedings.

12. *Be it further enacted*, That it shall be the duty of the board of internal improvements, to keep a fair and accurate record of all their proceedings, which shall be at all times open to the inspection of the members of the General Assembly and of the president and directors, and other officers of any company interested therein.

Report to the
legislature.

That they shall report to the General Assembly at or near the commencement of every annual session thereof, the exact state of the fund for internal improvement: the progress, condition and nett income of all the public works under their charge: the surveys, plans and estimated expense of such new works as they may recommend to the patronage of the General Assembly; together with such other important information as they may have it in their power to collect in relation to the objects committed to their trust: *Provided*, that where an appropriation shall be made of any part of the aforesaid fund to the improvement of any river the improvement of the navigation of which has already or shall hereafter be committed to, and the property therein vested in a corporation, then and in that case the state shall be considered a stockholder in said company, or corporation, and shall have as many shares as may correspond with the amount of the money thus advanced from, and appropriated out of said fund for internal improvement; and the acceptance by any company or corporation as aforesaid of such advance of money by the state, shall and the same is hereby declared to be the expression of the consent of said company or corporation, to the terms of the advance on the part of the state as expressed and intended by this proviso.

State to be a
stockholder for
all sums advan-
ced, &c.

CHAP. 990.

An act to amend an act passed in the year 1793, entitled "an act directing the manner of proceeding against the several officers therein named," (a) so far as requires them to renew their bonds once in every three years. (a See 1793, c. 384, s. 4, 1806, 699, s. 1.)

Be it enacted, &c. That all clerks of the superior and county courts, clerks and masters in equity, registers and public inspectors, shall, and they are hereby required to renew their several bonds for the faithful discharge of their duties in office with good and sufficient securities at the several and respective courts wherein they have their appointments, which shall be after the first day of March next ensuing, and once in each and every year thereafter, under the same rules, regulations and restrictions as are provided by the act of 1793, directing the manner of proceeding against the several officers therein named: *Provided*, that nothing herein contained shall be construed to extend to any of the above named officers who shall have given bond as aforesaid within twelve months preceding the first day of March next, but then and in that case it shall be the duty of the aforesaid officers to renew their respective bonds at the expiration of one year from the time of their appointment or the last renewal of their bonds (as the case may be,) and once in each and every year thereafter.

Bonds of clerks, registers and inspectors to be renewed every year.

CHAP. 991.

An act directing the sale of certain public land adjoining the city of Raleigh and for other purposes.

1. *Be it enacted, &c.* That Duncan Cameron, John Winslow, Joseph Gales, William Robards and Henry Potter, be, and they are hereby appointed commissioners for the purpose of selling, and they or a majority of them shall have full power and authority to sell and convey in fee simple, by instrument under their hands and seals, all or any part of the public lands contained in the deed from Joel Lane to the governor, for the use of this state, and adjoining the city of Raleigh, lying on the east side thereof; except a part thereof, not exceeding twenty acres, to be selected by the architect superintendent of public buildings and reserved for a quarry. Commissioners.

Lots to be valued.

2. *Be it further enacted*, That the said commissioners, or a majority thereof, shall lay off or cause to be laid off into convenient lots of such size as they may deem most proper, all of the above described land; and when the said lots shall be thus laid off, it shall be the duty of the commissioners, or a majority of them, to make an estimate of the value of each lot of land, and deposit the same with the treasurer: and they shall not communicate to any person, previous to the sale, the affixed value of any lot.

Rules for sale.

3. *Be it further enacted*, That the said commissioners shall cause to be set up at public auction the said lots of land, first giving sixty days notice by advertisement in the newspapers printed at Raleigh, of the time and place of sale: *Provided always*, that the commissioners shall adopt effectual measures to prevent the bidding off any lot for a less sum than the previous estimation, nor shall any title be made until the purchase money is paid: *Provided*, that nothing in this act shall be construed to empower the commissioners to sell the unappropriated lots which are situate in the corners of the city.

Reservation of lots.

Terms of sale.

4. *And be it further enacted*, That the purchasers of the lots of land shall have a credit of one year for one third part of the purchase money, two years for another third, and three years for the remaining third, on giving bond with approved security, payable to the governor, and negotiable at any of the banks in this state; which bonds shall be deposited with the treasurer, and by him collected when due.

Report to General Assembly.

5. *And be it further enacted*, That the said commissioners shall make a full and complete return of their proceedings herein to the next General Assembly.

To lay off roads.

6. *Be it further enacted*, That the said commissioners, in laying out the lots as directed in the second section, shall also have power to lay off such streets or roads as they may deem advisable.

Repair of state-house.

7. *And be it further enacted*, That the governor of this state be and he is hereby authorised and empowered to cause the state-house to be repaired and improved under the superintendence and direction of the architect for the state, in conformity with the plan prepared and submitted by him to the present General Assembly.

The funds appropriated.

8. *And be it further enacted*, That for the purpose of repairing and improving the state-house in the manner prescribed in this act, the governor shall have full pow-

er to draw warrants on the public treasurer, which shall be paid out of the money arising from the sale of the land by this act directed to be sold, and no other.

CHAP. 992.

An act concerning military land warrants.

1. *Be it enacted, &c.* That the governor, public treasurer and comptroller, or a majority of them, are hereby vested with full power and authority to hear and determine all applications which may be made for military land warrants, and their direction in writing, or the direction in writing of a majority of them, shall authorise the secretary of state to issue a warrant for such quantity of land as they or a majority of them may certify to be due to each applicant.

A board appointed to grant warrants.

2. *And be it further enacted,* That this act shall be in force from and after the passing thereof; and shall remain in force until the meeting of the next General Assembly, and no longer.

Limitations of this act.

CHAP. 993.

An act to explain an act laying duties on sales at auction of merchandise, passed in the year 1818. (a)

(a Sec 1818, c. 966, s. 1.)

Whereas doubts exist respecting the articles subject to the tax laid by the above recited act; to remove which,

Be it enacted, &c. That the said act shall not be construed to affect or extend to the sales at auction of any article the product of the agriculture of this state in its natural or unmanufactured state, nor to any species of stock, or of domestic animal, nor to any articles of household furniture or farming utensils, which have been in use, and that said act shall extend only to sales at auction of such articles of goods, wares and merchandise, as are the ordinary subjects of traffic and sale by merchants and traders.

What articles sold at auction subject to tax.

CHAP. 994.

(See 1782, c. 180, s. 3, 1811, c. 806, s. 7.)

An act more effectually to punish the making, passing or attempting to pass, counterfeit bank notes.

1. *Be it enacted, &c.* That if any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any bill or note in imitation of or purporting to be a bill or note issued by order of the president and directors of any bank or corporation within this state, or any of the United States, or any of the territories of the United States; or any order or check on any of the said banks or corporations, or any of the cashiers thereof; or shall pass, utter or publish, or attempt to pass, utter or publish, as true, any false, forged or counterfeited bill or note, purporting to be a bill or note issued by order of the president and directors of any bank or corporation within this state, or any of the United States, or any of the territories of the United States, or any order or check on any of the said banks or corporations, or any of the cashiers thereof, knowing the same to be falsely forged or counterfeited, with intention to defraud any corporation, body politic or person, every such person so offending shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law in any court of competent jurisdiction, shall be punished by fine and imprisonment, not exceeding three years, putting in the pillory, public whipping not exceeding thirty-nine lashes on his or her bare back, all or any of them at the discretion of the court, due regard being had to the nature and circumstances of the offence.

Punishment for counterfeiting bank notes or passing, &c.

And for passing directly or indirectly for gain.

2. *And be it further enacted,* That if any person shall directly or indirectly pass or attempt to pass to any other person for the sake of gain, any false, forged or counterfeited bill or note, purporting to be a bill or note issued by order of the president and directors of any bank or corporation within this state, or any of the United States, or any of the territories of the United States; or any false, forged or counterfeited order or check upon any of the said banks or corporations, or any of the cashiers thereof, (knowing the same to be falsely forged or counterfeited,) every such person so offending shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, in any

court of competent jurisdiction, shall be punished by a fine to the use of the state not exceeding five thousand dollars, and be imprisoned not exceeding three years, standing in the pillory, public whipping not exceeding thirty-nine lashes on his or her bare back, all or any of them at the discretion of the court, due regard being had to the nature and circumstances of the offence.

CHAP. 995.

An act concerning the clerks of the superior courts of law and equity, (See 1793, c. 389, s. 6.)
and clerks of the county courts.

Whereas there is no provision by law, authorising clerks of the superior and county courts to tax parties with the costs and charges of publication in the newspapers in cases of attachment, and where parties reside beyond the limits of the state; for remedy whereof,

1. *Be it enacted, &c.* That the clerks of the several superior courts of law and equity, and clerks of the county courts of this state, shall hereafter tax the party with the costs of publication in newspapers, who are bound to pay the other costs of suit. Clerk to tax the costs for publishing in cases of attachment.

2. *And be it further enacted,* That the said clerks shall tax hereafter, the parties bound to pay costs, with the postage of all letters which cover the transfer of original or mesne process from one county to another. And the postage of letters.

CHAP. 996.

An act directing the publication of the revisal of the laws of this state, made under the act passed in 1817, entitled an act for the revision of the acts of the General Assembly. (a) (a See 1817, c. 947.)

1. *Be it enacted, &c.* That the revisal of the acts of the General Assembly of this state, made and reported by Henry Potter, John L. Taylor and Bartlett Yancey, esquires, commissioners appointed under the act of 1817, entitled, "An act for the revision of the acts of the General Assembly," together with the titles of the statutes or parts of statutes of Great Britain, which said com- Revisal of the laws to be published.

What to contain.

missioners have reported in their opinion to be in force in this state, be published in octavo, on good paper and with a new type, to contain the second charter of Charles the second, the great deed of grant, the grant from George the second to John Lord Granville, the bill of rights and constitution of the state, together with the names of the persons who were members of the convention who formed the said bill of rights and constitution, the constitution of the United States, with the amendments, the treaty of peace of 1783, and all the acts of the General Assembly reported by the said commissioners, including the acts of 1819, with a copious index thereof.

Committee to contract for the printing, &c.

2. *Be it further enacted*, That Henry Potter, esq. together with the public treasurer and secretary of state, are hereby authorised to contract in writing with some fit person, upon the best terms which can be obtained, for the printing and binding of the said revisal in a neat and suitable manner; in which contract provision shall be made for supplying the state with two hundred copies of said publication, to be deposited with the secretary of state; of which number two shall be given to each county for the use of the superior and county courts, and that the person who shall become the publisher shall enter into bond with sufficient security, in the sum of five thousand dollars, payable to the governor for the time being, conditioned for the faithful and accurate printing and binding of the said revisal, within a time to be stipulated in said contract, which bond shall be filed with the governor.

Henry Potter appointed superintendent.

3. *Be it further enacted*, That Henry Potter, esq. one of the said commissioners, be and he is hereby appointed superintendent of the printing and publishing of the said work, whose duty it shall be to decide on the quality of the paper, the size and form of the type, and generally as superintendent to do all such things as may best insure the publication of the revisal in a manner suitable to its importance, and the character of the state. And if the said Henry Potter should die or refuse to act, the governor is hereby empowered, and he is required to appoint another.

CHAP. 997.

An act prescribing the mode of surveying and selling the lands lately acquired by treaty from the Cherokee Indians.

1. *Be it enacted, &c.* That as soon as may be convenient, after the passage of this act, the governor shall appoint two commissioners whose duty it shall be to superintend and direct the manner in which the said lands shall be surveyed and laid off into sections containing from fifty to three hundred acres of land: that they shall further cause the principal surveyor to note down in each of the said sections the quality of the land contained therein, stating that it is of the first, second or third quality; and in all cases where it can be done with convenience, or the situation of the land will admit of it, such portion of the adjoining mountainous lands shall be included in each section as may be deemed sufficient for buildings, fences, fuel and other necessary improvements.

The governor to appoint commissioners.

2. *And be it further enacted,* That one principal surveyor of skill and integrity, shall also be appointed by the governor, with full power and authority to appoint as many deputy surveyors, chain carriers and markers, and to employ as many pack-horses as may be thought necessary to complete the said survey in the most speedy and effectual manner; for whose conduct the said principal surveyor shall be responsible. And the principal surveyor shall give bond and security in the sum of ten thousand dollars, payable to the governor for the time being, for the faithful discharge of the several duties imposed by this act. It shall further be the duty of the said principal surveyor, under the directions of the commissioners aforesaid, to cause each section by him surveyed, to be measured and marked, and the corners to be clearly designated on trees, or otherwise, with the number of each section.

Principal surveyor. His duties.

Deputy surveyors, chain carriers, &c.

3. *And be it further enacted,* That each surveyor shall note in his field book, the true situation of all mines, springs, mill seats, and water courses, over which the lines he runs shall pass, and those contiguous thereto: That the said field book shall be returned to the commissioners, who shall cause their principal surveyor therefrom to make a description of the whole lands surveyed, in three connected plats, one of which, when completed, shall be transmitted to his excellency the

Duty of surveyor in noting mines, &c.

3 plats of the whole land to be made, &c.

governor, one to the secretary's office, and the other lodged and recorded in the clerk's office of the county of Haywood:

Site for public buildings.

4. *And be it further enacted*, That it shall be further the duty of the said commissioners to ascertain and fix upon some central and eligible spot for the erection of the necessary public buildings, whenever that section of the state may be erected into a separate county, and that four hundred acres surrounding the said site, shall be reserved for the future disposition of the legislature.

So much of the land only as will sell for 50 cents an acre to be laid off.

5. *And be it further enacted*, That no portion of said lands shall be surveyed and laid off into sections, except so much thereof as in the estimation of said commissioners will sell for fifty cents per acre; and that the residue of said lands shall be reserved for the future disposition of the legislature, and that no part or portion thereof shall be liable to be entered in the entry-taker's books for the county of Haywood, or elsewhere, until provisions be made by law for the disposal thereof; and entries heretofore made, or grants obtained, or which may hereafter be made, otherwise than as provided by this act, be and the same are hereby declared to be utterly void and of none effect.

Governor to give notice of sale, &c.

6. *And be it further enacted*, That the Governor on receipt of the plats and drafts heretofore provided for in this act, shall give notice by proclamation in all the newspapers published in the city of Raleigh, and in such other papers in the adjoining states of South-Carolina, Georgia, Virginia and Tennessee, of the time and place of sale as he may deem advisable, which in no case shall be less than two months from the date of the notice, that the said lands shall be exposed at public sale to the highest bidder at Waynesville, in the county of Haywood, under the superintendence of the said commissioners; and the sale shall be kept open for the space of two weeks and no longer.

Terms of sale.

[This is the fund for internal improvements, see ante. c. 989, & post. 1024, s. 6.]

7. *And be it further enacted*. That the said commissioners shall require of each and every purchaser to pay down at the time of sale, one-eighth part of the purchase money, and shall take bond and security for the payment of the balance in the following instalments, viz: The balance of one fourth at the expiration of twelve months, one other fourth at the expiration of two years, one other fourth at the end of three years, and the remaining fourth at the end of four years; and in no in-

stance shall a grant or grants issue to the purchaser, until the whole of the purchase money be paid in full; and in case of failure to pay the whole when due, and the money cannot be obtained by a judgment on their bond, then and in that case, the land shall revert to the state, and be liable again to be sold for the use and benefit of the state.

8. *And be it further enacted,* That if during the time of said sale, any section of land noted to be of the first quality, shall not command in the market the sum of four dollars per acre, the said commissioners shall postpone the sale of such section until further directed by the legislature; and in like manner lands of the second quality not commanding three dollars, and lands of the third quality not commanding two dollars, shall be postponed as aforesaid, and report thereof made to the governor. Minimum of price.
Sales postponed.

9. *And be it farther enacted,* That the said commissioners shall each receive per day, during the time of their performing the said duties, the sum of five dollars, the principal surveyor the sum of five dollars, and his assistants each the sum of four dollars: each chain carrier and marker, the sum of two dollars, and each man with a pack horse, two dollars and fifty cents; they and each of them bearing their own expenses. Compensation to commissioners, surveyors, &c.

10. *And be it further enacted,* That the said commissioners shall give to each purchaser a certificate describing the land by him purchased, with a plat of the lot and number of the section conformable to the plan returned to the secretary's office: upon the production of which and proof of the payment of the purchase money made to the secretary by the treasurer's receipt, it shall be the duty of said secretary to issue a grant to the purchaser for the said lot of land in the usual and common form. When grants are to be issued.

11. *And be it further enacted,* That each commissioner shall give bond and security, payable to the governor and his successors in office, in the sum of eighty thousand dollars, for the faithful discharge of the several duties imposed on them by this act. Commissioners to give bond.

12. *And be it further enacted,* That the bonds to be taken by the said commissioners for securing the balance of the purchase money, shall be by them lodged with the treasurer of the state, and they shall take from him duplicate receipts, one of which shall be filed with Bonds for purchases to be filed with the Treasurer.

the comptroller, who shall thereupon raise an account with the obligors.

Commissioners to make return to the comptroller, &c.

13. *And be it further enacted,* That the said commissioners shall render an account upon oath to the comptroller, of all monies by them received from purchasers on the several days of sale, and pay the amount thereof into the treasurer's office, at as early a period as possible after the said sales are over.

Temporary jurisdiction of the country.

14. *And be it further enacted,* That until the said section of country is laid off into a separate and distinct county, it shall be and remain subject to the jurisdiction of the county of Haywood, and form a part thereof.

Kind of money to be received.

15. *And be it further enacted,* That it shall be the duty of the governor to instruct the said commissioners as to the money or notes of banks other than those of this state, which shall be received in payment of said land.

Discount of 8 per cent. for prompt payment.

16. *And be it further enacted,* That if any purchaser shall be disposed to pay the whole of the purchase money or any particular instalment in advance, the treasurer or the commissioners are authorized to receive the same, and he shall be allowed a discount at the rate of eight per centum per annum on such advancement.

Advance of \$3000 to be made.

17. *And be it further enacted,* That the governor be and he is hereby authorised to draw on the treasurer for the sum of three thousand dollars, to be paid to the commissioners to enable them to commence the said business, and by them to be applied towards paying charges and expenses incident to the performance of the duties enjoined on said commissioners, and for which the said commissioners shall give the state credit on the final settlement of their accounts.

Occupants may be ejected by the purchasers.

18. *Be it enacted,* That each and every purchaser of any section, or sections of said land, having obtained a certificate from the commissioners as heretofore provided in this act, his heirs and assigns, shall have full power and authority to institute an action of ejectment in the name of the state of North-Carolina, against any person or persons, who may be in possession of such section of land, and shall, on application, refuse to deliver up quiet and peaceable possession thereof. And the certificate of the commissioners to such person shall be evidence of title and right to sustain said action, unless it shall appear to the court before whom such action is tried, that said purchaser has forfeited his

right under said purchase as in this act provided. *Provided*, the said purchaser shall give bond and security for the payment of all costs accruing in said action in case of his failure to recover.

CHAP. 998.

An act making provision for running the boundary line between this state and the state of Tennessee.

Whereas it is essential to the interest of this state in the disposal of the lands lately acquired by the treaty from the Indians, and to the continuance of the good understanding now happily subsisting between this state and the state of Tennessee, that the boundary line between the two states should be accurately run, distinctly marked, and permanently established. Preamble.

1. *Be it enacted, &c.* That the governor shall, and he is hereby authorised to appoint three commissioners to meet the commissioners who may be appointed by the state of Tennessee, at such time and place as may by the said commissioners, or by a majority of those representing the respective states, be agreed on, and with them to settle, run and mark the boundary line between this state and the state of Tennessee, agreeably to the true intent and meaning of the act of the General Assembly of this state, entitled “an act for the purpose of ceding to the United States of America certain western lands therein described.”(a) Governor to appoint three commissioners to run the line, &c.
(a See 1789, c. 299.)

2. *Be it further enacted.* That the governor, as soon as may be after the passing of this act, shall give notice thereof to the governor of the state of Tennessee, and shall request the appointment of commissioners on the part of the said state, to act with those appointed by this state in ascertaining, running and marking the boundary line between the two states; and this state will at all times hereafter, ratify and confirm all and whatsoever the said commissioners, or a majority of those of each state shall do, in and touching the premises, and the same shall be binding on this state. Notice to be given to the governor of Tennessee.

3. *Be it further enacted.* That if it shall so happen that commissioners shall not be appointed by the state of Tennessee, to act with the commissioners of this state in amicably ascertaining and marking the boundary line If no commissioners for Tennessee, then the commissioners for North-Carol-

line to run the
line and how.

between the states; or if it shall happen that the commissioners appointed by the state of Tennessee shall refuse to act with the commissioners on the part of this state, the commissioners on the part of this state are hereby authorised and required to proceed in running and marking said line from the Smoky mountain, where the line terminated which was run the year one thousand seven hundred and ninety-nine, under the direction of Joseph McDowell, Messersime Matthews, and David Vance, commissioners appointed by the act of the General Assembly of this state, passed in the year one thousand seven hundred and ninety-six, for running and marking said line to the thirty-fifth degree of north latitude, according to the courses designated in the act of seventeen hundred and eighty-nine, entitled "an act for the purpose of ceding to the United States of America, certain western lands therein described." And the commissioners on the part of this state shall cause an accurate plan of said boundary line to be made, specifying the courses, distances, natural and artificial marks thereof, and return the same to the General Assembly of this state.

Governor to
fill vacancy.

4. *Be it further enacted*, That in case of the death, refusal to act, or resignation of any of the commissioners hereby appointed, the governor is hereby authorised and required, as speedily as may be, to appoint another commissioner or commissioners in the place of such as may have died, resigned or refused to act.

Commissioners'
compensation.

5. *Be it further enacted*, That the commissioners appointed under this act, or by the governor under the authority thereof, shall be allowed for their personal services the sum of five dollars per day. And the said commissioners, or a majority of them, are hereby authorised to employ such surveyor or surveyors, and such chain carriers and markers, as they or a majority of them shall deem necessary: Each surveyor so appointed shall be allowed five dollars per day, each chain bearer and marker shall be allowed two dollars and fifty cents per day, said commissioners, surveyors, chain bearers, and markers bearing their own expenses.

Surveyors' and
chain carriers'
ditto.

Advance of
\$1000 to the
commissioners.

6. *Be it further enacted*, That to enable said commissioners to make advances to the persons employed by them during the progress of said running, and to compensate them at the close thereof, the governor by his warrant, shall direct the treasurer to pay to said com-

missioners upon their notifying to him that they are ready to proceed to the discharge of the trust hereby reposed in them, the sum of one thousand dollars. And said commissioners shall account for their application of said money to the succeeding General Assembly.

CHAP. 999.

An act prescribing the manner of assessing lands in this state for taxation. (See 1814, c. 872.)

1. *Be it enacted, &c.* That the justices of the peace appointed to take the lists of taxable property, within the several counties in this state, according to the directions of the act of Assembly passed in the year one thousand eight hundred and one, entitled "an act to fix a uniform time for taking the list of taxable property throughout the state, and for enforcing the collection of taxes," (a) shall, after giving due notice thereof according to the directions of the before recited act, require each and every person or persons liable to pay a land tax by lease or otherwise, to list each and every tract of land by him, her or them holden within the county, stating the number of acres of each separate tract, its local situation, and its reasonable value including the improvements thereon: And guardians of minors, lunatics and persons *non compos mentis*, shall in like manner list the lands of their wards and of such lunatics and persons *non compos mentis*, and each and every person or persons liable and bound to list lands as aforesaid, shall return the said list upon oath or affirmation, as the case may be, as it respects the number of acres, and shall affix the value to each tract of land, including the improvements thereon, contained in said list, not less than the value affixed to the same by the board of principal assessors under the last act of Congress providing for the assessment of lands of the United States: and it shall be the duty of the justices of the peace by whom the list of taxables are taken, to return to the clerk of the court, with his list of taxables, the abstract of assessment furnished him by the clerk: And in all cases when, by reason of improvements made on the said lands since the said assessment was made, or by any other cause, the justice receiving such list shall be of opinion that the said as-

Manner of giving in land.

(a See 1801, c. 570.)

Assessment not to be less than that made by the U. States.

Where land is undervalued.

Where a tract
of land lies in
two counties.

assessment is below the real value of said land with its improvements, he shall appoint two freeholders, acquainted with said land, to value said land upon oath, and such persons shall receive a compensation for their services of one dollar each, for every day they may be engaged in valuing said lands, to be paid by the owners of lands, *provided* the valuation made by such persons shall exceed that returned to the justice by the owner of the land : and in case the valuation shall not exceed that returned by the said owner, the compensation as aforesaid shall be paid by the county : *Provided*, that when a tract of land shall be in two or more counties, the person shall be bound to list the same in the county where he or she resides, if he or she resides in either of the counties, and if not then he or she may list the same in either of the said counties : and in case of transmitting a list of taxable property from the county in which the person bound to list it resides, to that in which the property is situate, the oath required to the list may be taken before any magistrate of the county in which the person bound to return the same resides.

Board of appeal.

2. *And be it further enacted*, That at the term of the courts of pleas and quarter sessions to which the lists of taxables are returned, the said court, not less than seven justices being present, shall appoint three respectable freeholders, as a board of appeal, to whom the clerk of said court shall deliver the lists of taxables returned to his office : who, before they enter on the duty assigned them by this act, shall take an oath before some justice of the peace, to discharge said duty to the best of their judgment and ability : said board shall meet at the court house on the Monday following said court, shall hold their sittings on every day of that week, unless the court shall limit their sitting to a less number of days, and shall hear the complaints not only of those who feel aggrieved by the valuation affixed to the lands returned by them for taxation, but also the complaints of any other person who shall represent that justice has not been done to the state by the reason of the low assessment of the lands of any person ; such board shall have power to administer oaths, may require the oath of the complainant, shall affix such valuation to any lands or town lots as they believe just, as well from their own knowledge of such lands and town lots, as from the evidence adduced before them ; shall return their valuation to the

Their powers
and duties.

clerk of the court, and such decisions shall be final; said board shall receive a reasonable compensation not less than two dollars per day to be allowed by the court appointing them, and be paid by the county trustee.

3. *Be it further enacted*, That the clerks of the respective courts of pleas and quarter sessions in every county, shall by public advertisements notify the inhabitants of their counties of the term to which the lists of taxables will be returned, and that the board of appeal will meet at the court-house on the Monday following said term, and of the number of days said board will sit to hear appeals.

Due notice to be given of the meeting of the board of appeal.

4. *And be it further enacted*, That every person appointed a member of the board of appeal, and failing to attend and act in such appointment, unless unable to attend, shall forfeit one hundred dollars, to be recovered in any court having jurisdiction thereof, and the vacancy in the board shall be filled by the remaining members.

Penalty for refusing to act.

Vacancy to be filled.

5. *Be it further enacted*, That if any person holding lands, or any guardian of a minor, lunatic, or person *non compos mentis*, shall fail to list the lands which he is bound to list by this act, he or she shall pay a double tax, to be collected by the Sheriff out of his or her property, by distress or other mode heretofore used in such cases, and the lands of a minor, lunatic, or person *non compos mentis*, shall in no case be liable to be sold for taxes.

Double tax.

Lands of a minor, &c. not to be sold for taxes

7. *Be it further enacted*, That the justices appointed as aforesaid shall make out a fair copy of the list of lands by them taken, in alphabetical order, with the number of acres and valuation annexed, and return the same, together with the list of other taxable property by them taken, to the clerk of the county court, at the next succeeding court which may happen after the time prescribed by law for taking the list of taxable property; and the clerks of the several county courts are hereby required, under the same penalties, regulations and restrictions as are already by law enjoined, to return to the comptroller, on or before the first day of September, in each and every succeeding year thereafter, an abstract of such lists, shewing the number of acres of land so listed, the valuation thereof, and the valuation of town property which shall be contained on said lists.

Justices to make returns to the clerk of the county court, and the clerk to the comptroller.

7. *Be it further enacted*, That it shall be duty of each of the clerks of the county courts in this state, who have

Clerk to obtain a copy of the

valuation of
lands from the
U. States assess-
or, and to fur-
nish each justice
with an abstract.

not already obtained the same, to apply to the principal assessors appointed under the late act of Congress for laying and collecting a direct tax for the district in which his county be situate, for a copy of the valuation of lands in said county made by the assessors under the said act, and it shall be the duty of said assessors to furnish said copy, for which he shall be paid a sum not exceeding ten dollars: And the clerk shall furnish each justice of the peace appointed to take the list of taxable property in his county, with an abstract of said copy, shewing the assessed value of each tract of land in the district for which the said justice shall be appointed to take the list of taxable property.

Clerks to fur-
nish sheriff with
alphabetical list.

8. *Be it further enacted*, That the clerks of the several county courts shall, within thirty days after the board of appeal have finished its session, deliver to the sheriffs of their respective counties, a fair and accurate copy of the returns made, in alphabetical order, and shall annex to the valuation of each person's property, the amount of taxes due thereon, and in case of failure thereof, be under the same rules and penalties as are already prescribed by law: and the respective sheriffs shall proceed, after the first day of April in each and every year, to collect the said taxes, and shall account for the same on or before the first day of October, in each and every year, under the same rules, regulations and penalties as are now by law prescribed.

Sheriff when to
commence his
collection and
when to account

When land not
given in, justice
to appoint a
freeholder to
value.

9. *Be it further enacted*, That if any person owning lands in any county within this state, or any non-resident, shall fail to return either by himself or agent, to the justice appointed to take the list of taxable property in the district in which the land of such owner or non-resident may be situated, a list of his or her land, with the number of acres and their valuation, in manner herein before prescribed, it shall be the duty of the said justices to appoint a freeholder acquainted with the lands to value the same on oath, within five days, and return the valuation to the said justice: And the said freeholder shall receive a compensation of one dollar for each tract by him valued, to be levied and collected by the sheriff at the time he collects the taxes on said land, if not previously paid by the owner, and under the same rules, regulations and restrictions.

His compensa-
tion.

10. *Be it further enacted*, That where any person shall have failed either by himself, agent, or guardian, to list

his, her or their lands, and the justice appointed to take the list of taxable property shall have failed to have the same assessed according to the provisions aforesaid, it shall be the duty of the sheriff, within the time prescribed for collecting taxes, to summon one freeholder near to or acquainted with the lands, whose duty it shall be within five days after such notification, to value said lands on oath, which oath the sheriff or his lawful deputy is hereby authorized to administer: And it shall be the duty of such freeholder summoned as aforesaid, to transmit under his hand a fair transcript of such valuation, to the clerk of the county court, at or before the succeeding county court, and also to deliver to the sheriff another transcript of the same within ten days after the valuation aforesaid, and that the said freeholder shall receive a compensation for his services as assessor, of one dollar for every tract of land by him assessed, to be levied and collected by the sheriff at the time he collects the taxes on said land, if not previously paid by the owner; and the clerk of the county court shall incorporate the returns made by the freeholders aforesaid, with those made by the justices.

When land not given in, and justice fails to appoint, sheriff shall summon a freeholder to value, &c.

His duty & pay

Clerks to insert the returns of freeholders.

11. *Be it further enacted*, That the valuation of lands and their improvements as required by this act, shall be made in dollars and cents: and the lands liable to be sold for taxes shall be sold under the same rules, regulations and restrictions as are by law established; and town property shall be given in and assessed in the same manner as prescribed in this act for other real estates.

Lands to be valued in dollars and cents.

Town property to be given in, &c. as other real estate.

12. *Be it further enacted*, That any person summoned or appointed by the justices or sheriff, as aforesaid, to value lands, who shall refuse or fail to perform the duties required by this act, shall forfeit and pay the sum of fifty dollars, to be recovered in the name of the county trustee to the use of the county.

Penalty on freeholders for refusing or failing, &c.

CHAP. 1000.

An act giving to the courts of pleas and quarter sessions power to regulate separate elections.

(See 1777, c. 116, s. 2.)

Whereas much of the time of the General Assembly is required to pass acts establishing and altering the places of holding separate elections,

County court
has power to fix
and alter places
of holding sepa-
rate elections.

Be it therefore enacted, &c. That the courts of pleas and quarter sessions of this state, at the term of election of sheriffs, a majority of the justices of said county being present, shall have full power and authority to fix and alter the places of holding separate elections in their respective counties; elections at the places so fixed to be subject to the same rules and regulations as elections are subject to by the general laws of this state.

CHAP. 1001.

An act to prevent fraudulent trading with slaves.(a)

(a See 1788, c.
285, 1791, c.
335, s. 1, 1805,
c. 690.)

Penalty for trad-
ing with slaves,
§50.

1. *Be it enacted, &c.* That if any person or persons shall deal, trade or traffic with any negro slave, the property of another, for any cotton, tobacco, flax, corn, wheat, rice, rye, oats, barley, bacon, pork, spirituous liquors, or beef, at any time, or for any kind of goods or commodities, or any thing in the night time, or between the setting of the sun and the rising thereof, or on the sabbath day, without a permission in writing from the master, mistress or other person having the management of such slave or slaves, setting forth the specific article or articles such slave or slaves may have for sale, every such person or persons, on conviction before any justice of the peace in the county where such offence was committed, shall pay the sum of fifty dollars, the one half thereof to the use of the person suing for the same, and the other half to the wardens of the poor of said county.

Also indictable.

2. *Be it further enacted,* That the said offence shall moreover be indictable in the county or superior court; and the defendant, on conviction, shall be fined or imprisoned at the discretion of the court, *Provided* the fine shall not exceed fifty dollars, or the imprisonment three months.

And if a retailer
of spirituous li-
quors, license
also to be for-
feited.

3. *Be it further enacted,* That if it shall appear on the trial, that the defendant is a licensed retailer of spirituous liquors by the small measure, he or she shall also forfeit his or her retailing license, and shall be incapable of taking a new license for the space of two years from and after the date of his or her conviction.

Appeal lies.

4. *Be it further enacted,* That either of the parties being dissatisfied with the judgment of the justice, or

verdict of the jury, may appeal therefrom as in other cases.

CHAP. 1002.

An act more effectually to compel payment from the officers therein named, of monies by them received in virtue or under colour of their office.

1. *Be it enacted, &c.* That whenever a sheriff, coroner, constable, clerk of a court of law, or clerk and master in equity has collected or received, or shall have collected or received, any money by virtue or under colour of his office, and on demand shall fail to pay the same to the person entitled to require the payment thereof, it shall be lawful for the person thereby aggrieved to move for judgment, in any court having competent jurisdiction, against such sheriff, coroner, constable, clerk or clerk and master, as the case may be, and against any or all of his securities; and it shall be the duty of such court to try the same and to render judgment accordingly, and at the term when the motion shall be made, provided ten days notice in writing of such intended motion shall have been previously given to the person or persons against whom judgment is prayed.

Summary judgment against sheriff, coroner, constable and clerk.

(See 1800, c. 559, 1802, c. 619, s. 1.)

2. *And be it further enacted,* That whenever hereafter money received as aforesaid, shall be unlawfully detained by a sheriff, coroner, constable, clerk of a court of law, or clerk and master in equity, from any person entitled to require the payment thereof, it shall be lawful for the person thereby aggrieved, whether pursuing his remedy against such delinquent or his representatives, or his securities, whether suing in the mode by this act prescribed or in any other way known to the law, to recover over and above the sum detained, damages at the rate of twelve per centum per annum, from the time of such detention until payment, and such damages shall form a part of the judgment to be rendered in his behalf by the court or the magistrate before whom his action may be brought: *Provided,* that such officers shall not be liable to the damages hereby given, if such officer shall offer payment in any of the notes of the banks of this state; unless the creditor shall have given notice to such officer not to receive any monies but gold or silver.

With 12 per cent. for damages.

Bank notes good payment.

CHAP. 1003.

(a See 1812, c. 344.) An act to amend an act passed in the year 1812, entitled "an act making the protest of a notary public evidence in certain cases."(a)

Protest of notary public evidence.

Be it enacted, &c. That in all actions of law, wherein it may be necessary to prove a demand upon, or notice to the drawer or indorsor of a bill of exchange or promissory note, or other negotiable security, the protest of a notary public, setting forth that he has made such demand, or given such notice, and the manner in which he has done the same, shall be *prima facie* evidence that such demand was made or notice given, in manner set forth in such protest.

CHAP. 1004.

(b See 1 1784, c. 204, s. 14.) An act to prevent frauds in the revocation of last wills and testaments.(b)

Devises of lands in writing, can only be revoked by some other will or codicil, or by burning, cancelling, &c. either by the devisor himself, or in his presence, and by his consent.

1. *Be it enacted, &c.* That no devise in writing of lands, tenements or hereditaments, or any clause thereof, shall be revocable, otherwise than by some other will or codicil in writing, or other writing declaring the same, or by burning, cancelling, tearing or obliterating the same, by the devisor himself, or in his presence and by his direction and consent: but all devises of lands and tenements shall remain and continue in force until the same be burnt, cancelled, torn or obliterated by the devisor, or in his presence and by his consent and direction; or unless the same be altered or revoked by some other will or codicil in writing, or other writing of the devisor signed by him or some other person in his presence and by his direction, and subscribed in his presence, by two witnesses at least, or unless the same be altered or revoked by some other will or codicil in writing or other writing of the devisor; all of which shall be in the hand writing of the devisor, and his name subscribed there or inserted therein, and lodged by him with some person for safe keeping, or left by him in some secure place, or among his valuable papers or effects: every part of which will or codicil, or other writing shall be proved to be in the hand-writing of the devisor, by three witnesses at least.

2. *And be it fur her enacted.* That no will, in writing, passing or bequeathing a personal estate of greater value than one hundred pounds current money of North-Carolina, or any clause thereof, shall be revocable otherwise than by some other will or codicil, or other writing, declaring the same; or by burning, cancelling, tearing or obliterating the same, by the testator himself, or in his presence or by his direction and consent. But such will in writing, passing or bequeathing a personal estate of greater value than one hundred pounds, shall continue and remain in force until the same shall be burnt, torn, cancelled, or obliterated by the testator himself, or in his presence by his direction and consent, or unless the same be altered or revoked by some other will or codicil, or other writing executed in the same manner, and with the same formalities as a will, good and sufficient in law to pass a personal estate of greater value than one hundred pounds currency.

Same, of personal bequests exceeding 100 pounds value.

CHAP. 1005.

An act to confirm the boundary line between this state and the state of Georgia, so far as the same has been run. (See 1807, c. 717.)

Whereas the states of Georgia and North-Carolina, by their respective commissioners, duly authorised for that purpose, have run and marked in part, the boundary line between the said states, in conformity with articles of conventional agreement made and concluded by and between the said states, by their respective commissioners, at Buncombe court-house, on the eighteenth of June, one thousand eight hundred and seven: And whereas the said first mentioned commissioners have reported the running and marking said boundary line as follows:— To commence at Ellicott's rock, and run due west on the thirty-fifth degree of north latitude, and marked as follows: the trees on each side of the line with three chops, the fore and aft trees with a blaze on the east and west side, the mile trees with the number of miles from Ellicott's rock, on the east side of the tree, and a cross on the east and west side; whereupon the line was commenced under the superintendence of the undersigned commissioners jointly: Timothy Tyrell, esquire, surveyor on the part of the commissioners of the state of

The line as agreed to be run in 1807.

As run in 1819.

Georgia, and Robert Love, esquire, surveyor on the part of the commissioners of the state of North-Carolina—upon which latitude the undersigned caused the line to be extended just thirty miles due west, marking and measuring as above described, in a conspicuous manner throughout; in addition thereto, they caused at the end of the first eleven miles after first crossing the Blue ridge, a rock to be set up descriptive of the line, engraved thereon upon the north side, September 25th, 1819, N. C. and upon the south side, 35 degree N. L. G.: then after crossing the river Cowee or Tennessee, at the end of sixteen miles, near the road, running up and down the said river, a locust post marked thus, on the south side, Ga. October 14, 1819; and on the north side, 35 degree N. L. N. C. and then at the end of twenty-one miles and three quarters, the second crossing of the Blue ridge, a rock engraved on the north side, 35 degree N. L. N. C. and on the south side, Ga. 12th Oct. 1819; then on the rock at the end of the thirty miles, engraved thereon, upon the north side, N. C. N. L. 35 degree G. which stands on the north side of a mountain, the waters of which fall into Shooting creek, a branch of the Highwassee, due north of the eastern point of the boundary line, between the states of Georgia and Tennessee, commonly called Montgomery's line, just six hundred and sixty-one yards.

Confirmed.

1. *Be it enacted, &c.* That the said boundary line, as described in the said report, be, and the same is hereby fully established, ratified and confirmed forever, as the boundary line between the states of North-Carolina and Georgia.

2. *And be it further enacted,* That this act shall be in force from and after the passing thereof.

CHAP. 1006.

An act to amend the acts respecting lands sold for taxes.

(See 1796, c. 449, s. 1, 2, and 1798, c. 492, s. 1.)
Sheriff to return to the county court before he

1. *Be it enacted, &c.* That the sheriff of every county shall, at the term of the court of pleas and quarter sessions of his county next preceeding the day he shall fix for the sale of any lands for taxes, in open court return a list of the tracts of land upon which the taxes are unpaid, and which he proposes to sell for the taxes; therein

mentioning the owner of each tract, and if the owner be unknown, the name of the last known or reputed owner shall be mentioned, the situation of said lands, and the amount of tax thereon due, which said list shall be read aloud in open court, recorded by the clerk upon the minutes of the court, and a copy thereof shall be put up by the said clerk, during the said term, in the court-room.

sells, a list of the lands to be sold for taxes.

2. *Be it further enacted*, That it shall be the duty of the sheriff, at the term of the court of pleas and quarter sessions of his county next after any sale of lands by him made for taxes, to return to said court a list of the tracts of land by him sold for taxes, the quality thereof so bid off for the tax, the name of the purchaser, and the sum due or paid to said sheriff by said purchaser for tax and charges, which list shall be read aloud by the clerk in open court, shall be recorded in the minutes of the court, and a copy thereof shall be put up by the clerk, during the said term, in the court-room.

Also to return a list of sales.

3. *Be it further enacted*, That it shall be competent for any person, desiring to redeem said lands, to pay the sum due for the redemption thereof to the clerk of the said court, whose receipt shall discharge the said land from all claim from the purchaser: *Provided*, such payment be made within the time fixed by law for redemption of lands sold for taxes: *And provided also*, that nothing herein contained shall be construed to dispense with the advertisement by the sheriff of his sales of lands for taxes as now by law directed.

But advertisement to be made as usual, and lands redeemable.

CHAP. 1007.

An act to amend an act, passed in the year one thousand eight hundred and fourteen, entitled "An act concerning divorce and alimony." (a)

(a 1814, c. 869, and see 1816, c. 928.)

1. *Be it enacted, &c.* That when on complaint and due proof made, a competent court shall hereafter decree a divorce from bed and board, the wife so divorced shall have capacity to acquire, retain and dispose of all such property as may thereafter be procured by her own industry, or may accrue to her by descent, devise, gift, bequest, or in any other manner: and that the said property shall not be liable to the power, dominion,

After divorce, the wife can hold and transmit property.

control or debts of her husband, but on her death, without a disposition thereof by her, shall be transmissible in the same manner as though she were unmarried.

Also may sue
and be sued.

2. *And be it further enacted*, That after a divorce decreed as aforesaid, the wife may sue and be sued without joining her husband, and may claim redress for, and be made liable upon contracts and injuries thereafter made and done, as though she were a feme sole.

CHAP. 1008.

(See 1800,
c. 558, 1804,
c. 665.)

An act to provide for the payment of witnesses on behalf of the state in certain cases.

Witnesses to be
paid by the
county in cer-
tain cases.

Be it enacted, &c. That hereafter witnesses summoned or recognised on behalf of the state, to attend on any prosecution, either in the superior or county courts, and the defendant by law shall not be bound to pay the same, and the court do not order them to be paid by the prosecutor, shall be paid by the county in which said prosecution was commenced.

CHAP. 1009.

(a 1802, c. 618,
s. 1, 2, 3.)

An act to amend an act, passed in the year one thousand eight hundred and two, entitled "An act to prevent conspiracies and insurrections among slaves." (a)

Death or trans-
portation.

Be it enacted, &c. That when any slave or slaves shall hereafter be convicted of either of the felonies created and recited in the first or second section of said recited act, he, she or they shall suffer death without benefit of clergy; or be transported according to the provisions of said recited act.

CHAP. 1010.

(b See 1784,
c. 219, s. 11,
1801, c. 582.)

An act to repeal part of an act, passed in the year one thousand seven hundred and eighty-four, entitled "An act for the more regular collecting and accounting for the public taxes." (b)

Be it enacted, &c. That so much of an act, passed in the year one thousand seven hundred and eighty-four,

entitled "An act for the more regular collecting, payment of, and accounting for the public taxes," as requires that the bond directed by law to be annually given by the public treasurer, shall be approved by the governor's council, be and the same is hereby repealed.

Dispenses with the approbation of the council to the treasurer's bond.

CHAP. 1011.

An act for the speedy decision of controversies about lands conveyed to or condemned for the use of companies incorporated for cutting canals, or for other public purposes.

1. *Be it enacted, &c.* That in all cases where disputes have arisen, or shall arise, between an incorporated company, for cutting a canal, or for other public purposes, and any individual or individuals, claiming the possession of, or title to, land alleged to have been conveyed to an incorporated company, for cutting a canal, or for other public purposes, or to have been condemned for the use thereof, and of which land the alleged conveyance or condemnation is not to be found of record, full and complete jurisdiction of all such disputes, and of the subject matter thereof, both in law and equity, be, and the same is hereby given to the court of pleas and quarter sessions of the county wherein the land lies, and also to the superior court of said county: and it shall be competent for either court, upon a petition in writing, whereof ten days previous notice shall have been given to the adverse party, to examine into the matter in controversy in a summary way, and to render and carry into execution such decree therein, as of right and in equity ought to be made and done.

County and superior courts may condemn lands for canals, &c.

Proceeding in a summary way.

2. *And be it further enacted.* That this act shall be in force from and after its ratification.

CHAP. 1012.

An act to authorise the rangers of the several counties in this state to administer oaths in certain cases, and for other purposes.

(See 1777, 119.)

1. *Be it enacted, &c.* That from and after the passing of this act, it shall be the duty of the rangers in the several counties in this state, on all applications to enter on their respective books any stray or estrays, to ad-

Rangers authorised to administer oaths.

minister to the freeholders called upon to value such estray or estrays, an oath for the faithful and impartial discharge of their duty; and also to administer the usual oath to persons by whom the owner or owners of property entered or to be entered as estrays, may wish to prove his, her or their title of such property: And any person swearing falsely and corruptly before any ranger in this state, in any case in which he is authorised by this act to administer oaths, shall, upon conviction, suffer the penalties already prescribed by law in cases of perjury.

Penalty of ten pounds for neglecting to enter strays.

2. *And be it further enacted.* That if any person shall hereafter take up any estray or estrays, and shall fail to have the same valued and entered upon the ranger's books as by law directed, he, she or they so offending, shall forfeit and pay the sum of ten pounds, to be recovered as heretofore provided by law.

3. *Be it further enacted.* That all acts and clauses of acts coming within the meaning and purview of this act, be and they are hereby repealed.

CHAP. 1013.

An act concerning militia fines and forfeitures.

(Sec 1812, c. 828, s. 4.)

Fines for not making returns, not to be appropriated to the use of regiments.

1. *Be it enacted, &c.* That so much of the acts of the General Assembly now in force, as directs that the fines and forfeitures incurred by officers of regiments, brigades and divisions, for not making the returns required by law, to be appropriated to the use of the said regiments, brigades and divisions, be, and the same is hereby repealed.

But to be paid into the treasury.

2. *And be it further enacted.* That all such fines and forfeitures shall hereafter be paid into the public treasury of this state by the officers into whose hands the same may come, to form a fund for the payment of the salary allowed to the adjutant-general, and to defray the contingent charges incurred in the execution of the laws respecting the militia.

3. *And be it further enacted.* That this act shall be in force from the passing thereof.

CHAP. 1014.

An act relative to the apprehension of runaway slaves.

(See 1741, c. 35, s. 24.)

Be it enacted, &c. That all persons hereafter, who may apprehend and confine in jail any runaway slave agreeably to the existing laws, for whom a reward shall not have been offered, shall be entitled to recover and receive from the owner of such slave, the sum of five dollars, to be taxed by the jailer against such owner, and collected with his prison fees: *Provided however,* that this act shall not be construed to extend to cases where a slave is apprehended in the county in which their master, mistress or overseer resides.

Five dollars to the apprehender.

CHAP. 1015.

An act to change the time of holding the supreme court of this state.

(See 1813, c. 963, s. 2.)

Be it enacted, &c. That after the close of the present term of the supreme court, the said court shall hold their sittings on the third Monday of June, and the last Monday of December annually.

Supreme court held the third Monday June, and last Monday December.

CHAP. 1016.

An act to make void parol contracts for the sale of lands and slaves.

(See 1792, c. 363, s. 1, 1806, c. 701.)

1. *Be it enacted, &c.* That all contracts to sell or convey any lands, tenements or hereditaments, or any interest in or concerning them, or any slave or slaves, shall be void and of no effect, unless such contract or some memorandum or note thereof, shall be put in writing and signed by the party to be charged therewith, or some other person thereto by him lawfully authorised: except nevertheless contracts for leases not exceeding in duration the term of three years.

Contracts for land and slaves must be in writing, except for leases under 3 years.

2. *And be it further enacted,* That this act shall be in force from and after the first day of January, one thousand eight hundred and twenty-one, and not before that time.

Taken effect Jan. 1, 1821.

CHAP. 1017.

An act for the preservation of the floating bridges in this state.

Fine of \$50 for making fast a vessel to any bridge.

Be it enacted, &c. That it shall not be lawful for any person to tie or make fast, any decked vessel to any of the float bridges of this state: and any person violating this act, shall forfeit and pay fifty dollars, recoverable before any jurisdiction having cognizance thereof, the one half to the use of the person suing for the same, and the other half to the wardens of the poor in the county where such bridge is situated: and where such bridge crosses a county line, the justices of either county shall have jurisdiction under this act; and the one half shall be paid to the wardens of the poor of the county where judgment is given by the justice, any law to the contrary notwithstanding.

CHAP. 1018.

An act regulating clerk's fees in certain cases.

(See 1784, c. 223, s. 1.)

Ten cents for tickets.

Be it enacted, &c. That for each and every witness ticket or juror's ticket which the clerk of the superior court of law, or clerk of the court of pleas and quarter sessions of the several counties in this state may hereafter issue, such clerk shall be authorised to charge the sum of ten cents and no more.

CHAP. 1019.

(See 1777, c. 108, s. 4, and c. 115, s. 42.) An act making the affirmation of Moravians and Menonists evidence in criminal cases.

Evidence of Moravians and Menonists in criminal cases.

Be it enacted, &c. That from and after the passing of this act, the solemn affirmation of Moravians and Menonists made in the manner heretofore used and accustomed shall be admitted as evidence in criminal cases as well as in civil controversies in this state, any law or usage to the contrary notwithstanding.

CHAP. 1020.

An act relative to the journals of the Legislature, and the duty of the secretary.

Be it enacted, &c. That the clerks of the Senate and House of Commons of this state shall annually hereafter, as soon as may be convenient, deposit in the office of the secretary of state the journals of the legislature; and the secretary of state is authorised and directed to make and certify copies of any part or entry of the journals of the legislature of this state, whether heretofore deposited in his office, or may be deposited there hereafter; and the secretary may take and receive for the copy of each entry so made and certified, the same fee as for the copy of a grant.

Journals to be deposited in secretary's office.

And secretary to give copies thereof.

CHAP. 1021.

An act concerning titles to lands held under Henry McCulloch and Henry Eustace McCulloch.

Be it enacted, &c. That in all actions and suits at law or in equity, wherein it may be necessary for either party to prove title by virtue of a grant or grants made by the king of Great-Britain or earl Granville to Henry McCulloch or Henry Eustace McCulloch, it shall be held sufficient for such party, in the usual manner, to give evidence of the grant or conveyance from the king of Great-Britain or earl Granville to the said Henry McCulloch or Henry Eustace McCulloch, and the mesne conveyances thereafter, without giving any evidence of the deed or deeds of release, relinquishment or confirmation of earl Granville to the said Henry McCulloch or Henry Eustace McCulloch, or of the power or powers of attorney by which the conveyances from the said Henry McCulloch and Henry Eustace McCulloch purport to have been made.

What evidence necessary to support title under McCulloch.

CHAP. 1022.

(See 1812, c. 847, 1818, c. 98, and post, c. 1026.) An act to extend the provisions of an act passed in 1818, entitled "An act to amend an act passed in 1812, entitled, An act relative to the power of courts of equity in cases of partition, and for other purposes."

Be it enacted, &c. That whenever the guardian of any person *non compos mentis*, shall state by bill or petition, on oath or affirmation, to a court of equity, that the land or lands of his or her ward are required for public purposes, and that the interests of the person so being *non compos mentis*, and of all others who may be concerned therein, will be promoted by a sale thereof, the same proceedings shall and may be had as are directed and prescribed by the before recited act, in the case of any joint tenant or tenants in common: *Provided nevertheless*, That the proceeds of the sale of said real estate shall have all the attributes of said real estate, and shall descend and be distributed as real estate would do.

CHAP. 1023.

(See 1783, c. 189, s. 3, 1806, c. 694, s. 9.) An act compensating witnesses attending the county courts.

Be it enacted, &c. That every person who shall attend a court of pleas and quarter sessions as a witness in any cause therein depending, shall be allowed for each and every day's attendance, and for every thirty miles he or she shall travel, going to and returning from the said court, six shillings, *provided* the said witness resides within the county wherein the suit is tried, or the sum of ten shillings if such witness lives out of said county, to be paid as heretofore directed by law: *Provided*, that in any county where witnesses are by law allowed a greater sum than six shillings per day for attending county courts, they shall continue to be paid as heretofore.

Witnesses allowed 60 cents if within the county—100 cents if without.

CHAP. 1024.

An act to lay out a road from Waynesville, in Haywood county, to the southern boundary line of this state.

1. *Be it enacted, &c.* That Thomas Lenoir, Joseph Chambers and Hodge Rayborne, of the county of Haywood, be and they are hereby appointed commissioners to view and lay out a road from the north eastern boundary line of Haywood, at Jesse Bellow's old place, to the southern boundary line of this state, which road shall pass by Waynesville, in the county of Haywood, and by such place as shall be designated and set apart for erecting the public buildings for the county to be formed out of the lands lately ceded by the Cherokee Indians.

Names of commissioners.

2. *Be it further enacted,* That the said commissioners, or a majority of them, shall have power to employ such surveyors, chain carriers and markers, as may be required for laying out and marking said road, and allow them such compensation for their services as they may deem adequate; to be paid in manner hereinafter directed.

Surveyors and chain carriers.

3. *Be it further enacted.* That the said commissioners shall cause two fair plats of the route for said road to be made out, one of which shall be returned to the board of managers of the fund for internal improvements, and the other shall be filed in the office of the clerk of the county court of Haywood: which plats shall represent accurately the mountains and water courses which the said road shall pass, and the distances from one remarkable place to another, and also the whole distance from the beginning to the termination of said road.

Plats to be made out.

4. *Be it further enacted.* That on receipt of one of the plats of survey of the said road, the board of managers of the fund for internal improvements shall have power, by themselves or their agents, to contract for cutting out, clearing and marking the said road, in such way, and on such terms and conditions as they may deem most advantageous to the public interest; and when the said road shall be opened and put in good order, it shall thereafter be and remain a public road and highway, free for the use of the citizens of this state, and all others: and shall be kept in repair as other roads and highways in this state.

Contract for opening.

Commissioners' pay.

5. *Be it further enacted*, That the commissioners appointed to view and lay out the said road, shall be allowed the sum of four dollars each, for every day they or either of them may be actually engaged in the duties prescribed by this act, in full of their services.

Fund for payment.

6. *Be it further enacted*, That all the expenses incurred in laying out and marking said road, in the manner directed by this act, not exceeding the sum of four thousand dollars, shall be paid out of the fund for internal improvements, by the board of managers thereof.

(See ante. c. 989, and 997.)

CHAP. 1025.

An act to appoint a board of branch pilots to examine all persons who now have, or may hereafter wish to obtain a branch to pilot over Ocacock Bar and the Swashes.

Board of branch pilots.

1. *Be it enacted, &c.* That William Howard, Jacob Gaskill and William Scarbro, of Ocacock, and William Wallace, James Howard and Littleton Styron, of Portsmouth, be and they are hereby appointed a board of branch pilots, and they or a majority of them are hereby authorised and empowered to meet as soon as convenient, and notice all persons, who are or wish to be branch pilots for Ocacock Bar and the Swashes, to appear before them for the purposes mentioned in this act; and the board aforesaid shall examine all and every of such persons, and to such as are found qualified for branch pilots, the aforesaid board shall give certificates of their qualifications, to act as a bar and swash pilots, and the said certificates shall be signed by a majority of said board.

Their duty.

Examination of all applicants.

2. *And be it further enacted*, That when any person or persons are desirous of becoming pilots at Ocacock Bar and the Swashes, before they shall obtain a branch from the commissioners of navigation at the towns of Newbern, Washington, Edenton, or any other place, they shall first be examined by the said board of branch pilots, and such person or persons so examined and found competent to take charge of any ship or vessel as a pilot, the board aforesaid shall recommend to the commissioners of navigation in this state to give to him or them branches accordingly, under the same rules and regulations as heretofore prescribed by law, and no person shall be authorised to act as bar and swash pi-

Commissioners of navigation to give branches.

lots unless recommended by the aforesaid board, and licensed by the commissioners of navigation as heretofore: *Provided, nevertheless*, that if any person shall apply to the within named commissioners for a certificate as before named, and shall be refused by said commissioners, that such refusal shall not take away the right of the commissioners of navigation to grant such person or persons so refused a license.

3. *And be it further enacted*, That the board aforesaid shall receive one dollar for each certificate by them given, to be paid by the person applying for such certificate.

One dollar for each certificate.

4. *And be it further enacted*, That every pilot who stands an examination under the aforesaid board, and receives a branch, and is afterwards found incompetent by intoxication, or otherwise, to perform the duties of a pilot, the commissioners aforesaid shall have power, upon the request of the board aforesaid, to *revoke* said branch, and from that time such pilot or pilots shall be disqualified from any further exercising the business of a pilot, any law to the contrary notwithstanding.

Branch may be revoked for incompetency.

5. *And be it further enacted*, That the board of branch pilots by this act appointed, before they enter upon the duties of their office, shall take and subscribe before some justice of the peace for the county of Carteret the following oath, to wit: I do solemnly swear that I will truly, faithfully and impartially examine all persons by this act directed, according to the best of my skill and ability, so help me God.

Oath of the board.

CHAP. 1026.

An act in addition to the acts relative to the power of courts of equity in cases of partition.

(See 1812, c. 847, 1818, c. 982, & ante, c. 1022.)

Be it enacted, &c. That when an application shall be made to a court of equity by joint tenants, tenants in common, or tenants in coparcenary, for a sale of real estate, which is incumbered with dower, it shall and may be lawful, if the person holding or entitled to dower therein shall join in said application, for the court to decree an immediate sale of the said real estate, and to cause a third part of the proceeds thereof to be secured to the use of the person so holding or entitled to dower therein for life.

When sale of land is ordered by courts of equity, widow's dower may also be sold.

CHAP. 1027.

An act concerning the public arms.

(See 1812, c.
835.)Places of depo-
sit.

1. *Be it enacted, &c.* That it shall be the duty of the governor to procure some suitable place of deposit in the towns of Edenton, Newbern and Fayetteville, by renting or otherwise, for such arms as now belong to, or may hereafter become the property of this state, and to cause such arms to be collected and removed to one of the places of deposit aforesaid: *Provided however,* that the governor may from time to time direct such portion of said arms as may be necessary for arming any volunteer companies equipped according to law, to be delivered to the commanding officer of such companies, taking his receipt for the same.

Arms to be
cleaned, &c.

2. *Be it further enacted,* That it shall be the duty of the governor to cause all such arms to be repaired and cleaned before they are boxed up and placed in deposit: it shall moreover be his duty to employ some suitable person to take charge of each of said places of deposit, with the arms which may be deposited therein; and he shall have power from time to time to draw on the treasury for money to defray all the expenses incurred in carrying this act into effect.

CHAP. 1028.

An act concerning the Roanoke Navigation Company.

General meet-
ing 2d Monday
of November.

1. *Be it enacted, &c.* That the general meeting of the stockholders of the Roanoke Navigation Company shall hereafter be held on the second Monday in November, in each and every year, or at such other time as the stockholders in general meeting may appoint, any law to the contrary notwithstanding.

Proviso.

2. *And be it further enacted,* That this act shall be in force whenever the General Assembly of Virginia shall pass an act to the same purport and effect.

CHAP. 1029.

An act to appoint commissioners to lay off and establish the dividing line between the counties of Perquimans and Gates.

Whereas, the dividing line between the counties of Perquimans and Gates have not heretofore been sufficiently described, either by actual surveys, or by known and fixed boundaries, whereby it becomes uncertain, in order to prevent disputes between the inhabitants of said counties, that the said dividing line should be more accurately ascertained and laid off,

1. *Be it therefore enacted, &c.* That Willis Riddick and Langley Billups, of the county of Perquimans, and Joseph Gordon and Joseph Riddick, of the county of Gates, be and they are hereby appointed commissioners with full power and authority to lay off, extend and mark the line between the said counties, due regard being had to the former reputed line. Commissioners
for running the
line.

2. *And be it further enacted,* That the said commissioners shall appoint such surveyor, chain carrier, and other attendants, as shall be necessary for the marking, extending and establishing the said line, and shall make, or cause to be made, a return of their proceedings to each of the courts of pleas and quarter sessions of the said counties, to be deposited and kept among the records thereof, and the said lines, when so extended, and laid off, shall forever thereafter be established and confirmed, as the dividing line between the said counties. Their duty.

CHAP. 1030.

An act to attach part of Hyde county to Beaufort county.

Be it enacted, &c. That all that part of the county of Hyde, which lies upon the west side of Deepo river, be, and it is hereby added to, and made a part of the county of Beaufort. Part of Hyde
county added
to Beaufort.

CHAP. 1031.

An act to annex part of Craven county to the county of Lenoir.

Part of Craven
county added to
Lenoir.

Be it enacted, &c. That all that part of Craven county lying above Moseley's creek be and the same is hereby annexed to, and shall hereafter be considered as forming part of the county of Lenoir.

CHAP. 1032.

An act to appoint commissioners to complete running and marking the dividing line between Chowan and Perquimons counties.

Commissioners
for running the
line.

1. *Be it enacted, &c.* That James Skinner and Willis Elliot, of the county of Chowan, and John Nixon and William Goodwin, of the county of Perquimons, are hereby appointed and authorised commissioners to complete running and marking the dividing lines between the counties of Chowan and Perquimons, and to appoint a surveyor, chain carriers, and assistants, at their discretion, for the effecting said division and marking.

How to be run.

2. *Be it further enacted,* That they shall commence running at the bridge in the lane called James Hataway's sen. and run a direct course to Caleb Goodwin's bridge in Bear swamp, from thence a direct course to where the Crane pond crosses the Sandy ridge road, thence up the Sandy ridge road to where the Gates county line crosses the said road.

Surveys filed.

3. *Be it further enacted,* That the said commissioners shall cause to be made correct copies of their survey; one of which shall be filed in the secretary's office, and one in each of the clerk's offices of the court of pleas and quarter sessions in the counties of Chowan and Perquimons.

CHAP. 1033.

An act to appoint commissioners to run and establish the dividing line between the counties of Duplin and Onslow.

Whereas considerable difficulty hath arisen with the wardens of the poor for the counties of Duplin and Onslow, respecting the maintenance of certain parishioners belonging to said counties, in consequence of the dividing line between said counties never having been ascertained; to remedy which,

1. *Be it enacted, &c.* That Hugh Maxwell and John Farrier, Esquires, of the county of Duplin, and Jason Gregory and Averett Simmons, Esquires, of the county of Onslow, be, and are hereby appointed commissioners to run and establish the dividing line between the counties of Duplin and Onslow, as soon as may be practicable after the passing of this act. Commissioners for running the line.

2. *And be it further enacted,* That the said commissioners shall make a report of their proceedings to their respective county courts of Duplin and Onslow aforesaid, which report shall be filed in the clerks office of said counties. Report filed.

3. *And be it further enacted,* That the said line so established by the commissioners aforesaid, shall be the permanent line between the said counties of Duplin and Onslow, and shall govern all controversies that shall or may have arisen in either county concerning said line. Line established.

CHAP. 1034.

An act to appoint commissioners to run and establish the dividing line between the counties of Duplin and Lenoir.

Be it enacted, &c. That Daniel Glisson and Edward Albertson, of Duplin county, and Joel Hines and Job Leary, of Lenoir county, be, and they are hereby appointed commissioners for the purpose of running and establishing the dividing line between the counties aforesaid, and they are also authorised to appoint one surveyor from each of the aforesaid counties, with such number of markers and chain carriers as they may deem necessary, and when the said commissioners shall have completed the same in the manner which a majority thereof may prescribe, two fair plats or representations of the said dividing line shall be by them made out, and returned to the clerk's office of the respective counties aforesaid, and the same shall be entered on the records thereof; and the said line so run and established, shall forever thereafter be considered the permanent dividing line between the said counties. Commissioners for running the line. Their duty.

Read three times, and ratified in General Assembly, }
the 24th day of December, A. D. 1819. }

B. YANCEY, S. S.

R. M. SANDERS, S. H. C.

A Copy.—WM. HILL, Secretary.

APPENDIX.

At a General Assembly, begun and held at Raleigh, on the twentieth day of November, in the year of our Lord one thousand eight hundred and twenty, and in the forty-fourth year of the independence of the said state. Jesse Franklin,
Esq. governor.

CHAP. 1035.

An act to amend an act, passed in the year eighteen hundred and nineteen, entitled "An act making provision for the running the boundary between this state and the state of Tennessee, and to repeal a part thereof." (a) (a See 1819,
c. 998.)

1. *Be it enacted, &c.* That the commissioners appointed under an act of Assembly, passed in the year one thousand eight hundred and nineteen, entitled An act making provision for the running the boundary line between this state and the state of Tennessee, or who may hereafter be appointed under the before recited act, shall be allowed two pack-horses and two men for the transportation of all necessary baggage, who shall be appointed by the said commissioners, and receive as a compensation for their services the sum of two dollars per day, each of them bearing their own expenses. Commissioners
allowed 2 pack-
horses and 2
men, who are to
receive 2 dollars
per day.

2. *And be it further enacted.* That so much of the fifth section of the before recited act as allows the sum of two dollars and fifty cents per day to each chain-bearer and marker who may be appointed under the before recited act, be, and the same is hereby repealed and made void. Repealing
clause.

3. *And be it further enacted.* That each chain-bearer and marker who shall be appointed under an act passed in the year eighteen hundred and nineteen, entitled An act making provision for the running the boundary line between this state and the state of Tennessee, shall in future receive, as a compensation for their services, the sum of two dollars per day, said chain-bearers and markers bearing their own expenses. Making com-
pensation to
chain-bearers
and markers.

CHAP. 1036.

(a 1819, c.
992.)

An act to revive and continue in force an act, entitled "An act concerning military land warrants," passed in the year one thousand eight hundred and nineteen.(a)

Directing the governor, treasurer and comptroller to hear and determine applications for land warrants, and authorising the secretary to issue warrants.

Be it enacted, &c. That the above recited act vesting the governor, public treasurer and comptroller, or a majority of them, with full power and authority to hear and determine all applications which may be made for military land warrants; and that their direction in writing, or the direction in writing of a majority of them, shall authorise the secretary of state to issue a warrant for such quantity of land as they, or a majority of them, may certify to be due to each applicant, is hereby revived and re-enacted, and shall be in force from the ratification of this act until the meeting of the next General Assembly, and no longer.

CHAP. 1037.

An act prescribing the time within which mortgages and deeds, and conveyances in trust shall be proved and registered.

To be registered within six months, or void.

Be it enacted, &c. That no mortgage, nor deed, or conveyance in trust for any estate, whether real or personal, executed after the first day of June next, shall be good and available in law against creditors or purchasers for a valuable consideration, unless the same shall have been proved and registered in the manner already prescribed by law in the case of conveyances, other than mortgages, within six months after the execution of such mortgage or deed, or conveyance in trust; but that all mortgages, deeds, and conveyances in trust, not so proved and registered within the time aforesaid, shall be held and taken as against such creditors or purchasers, as utterly null and void.

CHAP. 1038.

(b See 1818,
c. 973.)

An act allowing additional compensation to the attorney-general and solicitors of this state.(b)

1. *Be it enacted, &c.* That the attorney-general, solicitor-general and solicitors for the state, shall hereafter

receive the sum of twenty dollars for each court they shall attend, to be paid by the public treasurer on their presenting a certificate of such attendance from the clerk of the court. Attorney-general and solicitors to receive 20 dollars a court.

2. *Be it further enacted*, That the attorney-general, or solicitor who may attend in his place, shall hereafter receive the sum of one hundred dollars for each term of the supreme court which he shall attend, instead of the sum now allowed by law. 100 dollars for each supreme court they attend.

3. *And be it further enacted*, That the attorney-general and solicitors of this state, shall in addition to the above compensation receive the following fees, and no other, to wit: for each and every indictment for murder, perjury, forgery, and burglary, which they, or either of them, may have occasion to prosecute on behalf of the state, they, and each of them, shall receive the sum of ten dollars, upon the conviction of the defendant, to be paid by the party convicted. That for each and every indictment for grand or petit larceny, arson, for frauds, deceits and main, the sum of five dollars, to be paid as aforesaid: and for all other offences whatsoever the sum of three dollars, to be paid as aforesaid, and in no other manner whatsoever: except in cases of inferior offences, where the court shall be of opinion that the prosecution is frivolous or malicious, and may think proper to order that the prosecutor shall pay the costs. Their fees.

4. *And be it further enacted*, That all laws heretofore passed coming within the meaning and purview of this act, be and the same are hereby repealed and made void. Repealing clause.

CHAP. 1039.

An act further pointing out the duty of guardians.

1. *Be it enacted, &c.* That from and after the passing of this act, it shall be the duty of all guardians of every description heretofore appointed, as well as all those hereafter to be appointed, to renew their respective bonds(a) in the several county courts of this state at the following periods, to wit: all guardians heretofore appointed shall renew their respective bonds at the first court which shall happen in their respective counties after the first day of January, 1822, and every three The times when their bonds shall be renewed.

(a For giving bonds, see 1762, c. 69, s. 7.)

years thereafter, during the continuance of their respective guardianships, and all guardians hereafter to be appointed, shall renew their bonds every three years after the date of their respective appointments.

2. *And be it further enacted.* That it shall be the duty of the clerks of the several county courts in this state, to issue a notice (e) in nature of a scire facias against each and every guardian in whatsoever county he may reside, who shall fail to comply with the requisitions of this act, and upon a return made of the service of such notice that the guardian is not to be found, an alias shall issue, and if upon the return of such alias notice the guardian is not to be found, it shall be the duty of the several county courts to remove such guardian from office, and to appoint a successor to him or them so removed, and to take bond with good and sufficient security, to be approved of by the said court from the succeeding guardian, unless the former guardian shall at the court to which notice shall be returned, appear and comply with the requisitions of this act.

Clerk to issue notice.

Proceedings thereon.

(a See 1816, c. 905.)

CHAP. 1040.

(See 1819, c. 988.)

An act to provide a revenue for the payment of the civil list and contingent charges of government for the year one thousand eight hundred and twenty-one.

Tax of 6 cents on every \$100 of real property.

1. *Be it enacted, &c.* That for the year one thousand eight hundred and twenty-one, there shall be levied and collected from all the real property with the improvements thereon, within this state, subject to taxation, the sum of six cents on every hundred dollars value thereof.

Tax on stud horses and jack asses.

2. *Be it further enacted.* That a tax on all stud horses and jack asses within this state, of the highest sum which the owner or keeper of such stud horse or jack ass, shall ask, demand or receive for the season of one mare, shall be levied, collected and accounted for; and all stud horses and jack asses which are not stationed in any one county, and all those that may be brought from another state to stand for a less term than the season in this state, shall pay the sheriff of some county, the amount of the season, as soon as the season of such horse or jack ass shall commence, or produce a certificate from a justice of the peace of the county from

whence such horse or jack ass came, (if in this state) the such stud horse or jack ass has been enlisted for taxation; and it shall be the duty of the sheriff to collect the said tax: and on failure of the owner of such horse or jack ass to pay the same when demanded, it may be lawful for the sheriff to distrain for the same by seizing the said horse or jack ass, and make sale thereof for the tax.

3. *And be it further enacted*, That each and every person who shall peddle in any county in this state, and not on a navigable stream, goods, wares or merchandise, not of the growth or manufacture of this state, or any wooden clock, or the machinery or materials thereof, which shall not be of the manufacture of this state, or jewellery, shall pay the sheriff of each and every county in which he, she or they shall so peddle goods, wares and merchandise, or jewellery, the sum of fifteen dollars on every cart, waggon or other vehicle employed in the transportation of said goods, wares and merchandise: *Provided*, that no license to peddle, shall authorise such peddler to sell goods at auction: *Provided*, that should two or more persons employ one cart, waggon or other vehicle, to transport their goods, wares or merchandise, each and every of them shall pay the aforesaid tax on said cart, waggon or other vehicle by them employed; nor shall any thing in this act be construed to authorise two or more persons under the pretence of being partners in trade, to peddle goods, wares or merchandise under the same license; which tax shall be accounted for by the sheriff in like manner as other taxes: and upon paying such tax, and obtaining a receipt therefor, such person shall be authorised and permitted to hawk and peddle goods, wares and merchandise, wooden clocks, or the machinery or materials which shall not be of the manufactory of this state, or jewellery as aforesaid, in such county, and no other, for the term of one year thereafter: and every person who shall peddle goods, wares and merchandise, not of the growth or manufacture of this state, except vegetables, or other provisions of the produce of the United States, on any navigable waters in this state, shall pay the sheriff of each and every county in which he shall so peddle, fifty dollars, as a tax to the state, to be levied and accounted for as above; and on payment thereof, shall be authorised and permitted to peddle goods as aforesaid, in

On peddlers who sell imported wares or merchandise.

Proviso.
Not to sell at auction without licences.

Proviso.
If more than one peddler sell from the same vehicle, each shall pay a separate tax.

such county, and no other, for the term of one year thereafter; and each and every person who shall peddle in any county without previously having paid the tax thereon, and having obtained a license as hereinafter directed, or who shall refuse or neglect upon the request of the sheriff or his lawful deputy, or any justice of the peace, to shew a license therefor, shall be liable to forfeit two hundred dollars, to be collected by the sheriff of the county where such offence shall be committed, by distress and sale of the property of such delinquent; and to be applied, one half to the use of the state, and the other half to the use of the sheriff: *Provided nevertheless*, that nothing in this act contained shall extend to tax persons who sell books only; and provided nothing herein contained shall exempt the person or persons thus licensed, from being liable to the duties imposed on those who sell goods, wares and merchandise, or wooden clocks, or the machinery or materials thereof, which shall not be of the manufactory of this state, at auction.

Proviso.

Those who sell books only not to be taxed.

Comptroller to issue blank licenses to sheriffs.

4. *And be it further enacted*, That the comptroller shall issue to the several sheriffs, blank licenses to peddle goods within this state, who shall, upon application of any person or persons desirous to hawk and peddle goods, countersign and issue the same, to the person so applying, upon his paying the taxes so imposed; and that all licenses so issued by the comptroller and delivered to any sheriff, shall stand as a charge against said sheriff for the amount of said licenses; and the sheriff shall be entitled in the settlement of his public accounts to a credit for all licenses not issued and countersigned, which he shall return to the comptroller: and that the comptroller shall issue and deliver to the members of this General Assembly, to be delivered to the respective sheriffs not less than twenty licenses for each county, before the rise of the General Assembly: and should any sheriff who shall have received any licenses as aforesaid, resign, or the term of his service expire, without having issued the licenses so delivered to him, he shall deliver the same to his successor, and the receipt of such successor shall be allowed said sheriff in his settlement with the comptroller.

Merchant's and jeweller's tax on imported

5. *And be it further enacted*, That every merchant or jeweller who shall sell goods, wares and merchandise, not the growth and manufacture of this state, in any re-

tail store, shall pay the following tax, to wit: if the amount of his capital stock in trade shall be between four hundred and two thousand dollars, a tax of six dollars; if between two thousand and five thousand dollars, a tax of eight dollars; if the amount of his capital stock in trade as aforesaid, shall be between five thousand and ten thousand dollars, a tax of twelve dollars; if the amount of his capital stock in trade as aforesaid, shall be between ten thousand and fifteen thousand dollars, a tax of fifteen dollars; and if the amount of his capital stock in trade as aforesaid, shall be above fifteen thousand dollars, a tax of twenty dollars; and every wholesale merchant shall pay a tax of twenty-five dollars; and every commission merchant a tax of fifteen dollars; and every such merchant shall give in such store or stores in the list of taxable property, under the same rules and regulations as other taxable property is given in, and the tax thereon shall be levied, collected and accounted for in the same manner as other taxes. *Provided always*, that no retailer of spirituous liquors by the small measure, shall be liable to pay in addition to the tax imposed on said retailers, the tax also imposed on stores, unless said retailers shall own goods, wares and merchandise, other than liquors to the amount therein stated, *Provided also*, that the sheriff shall and may be entitled to collect the tax imposed by this section, from such persons also as keep stores for a less time than one year, and shall have capital stock in trade to the amount herein specified, although such stores were not open on the first day of April; and every retail merchant who shall fail or refuse to comply with the requisitions of this section, shall be liable to pay the highest tax imposed on retail stores. *Provided*, that no retail or wholesale merchant shall pay the tax imposed on commission merchants.

wares and merchandise.

Proviso.

Retailers of spirituous liquors exempt from additional tax.

6. *And be it further enacted*, That the owners of billiard tables shall hereafter give them in, in the same manner as other taxable property, and shall pay for each billiard table a tax of five hundred dollars, and after the first day of April next no billiard table shall be erected or kept up until such tax shall be paid to the sheriff of the county in which said table is erected or kept up, and a license to erect or keep up the same shall be first granted by said sheriff: and if any table is erected or kept up without such license, the sheriff of

500 dollars on billiard tables.

the county where the same is so erected or kept up, shall seize and destroy the same; and the person erecting or keeping up the said table shall be subject to indictment, and on conviction, shall be fined not less than two hundred dollars and imprisoned at the discretion of the court.

7. *And be it further enacted.* That every company of stage-players, rope-dancers, tumblers and wire-dancers, or company of circus-riders, or equestrian performers, and each and every person or company who shall exhibit natural or artificial curiosities of any kind or sort, for a reward, shall, previously to performing or exhibiting in any county in this state, pay to the sheriff thereof twenty dollars as a tax to the state, to be accounted for by the sheriff as other taxes; and on paying such tax, and obtaining a receipt therefor, such company or person shall be authorised and permitted to perform or exhibit as aforesaid in such county, and no other, for the space of one year thereafter; and each and every itinerant stage-player, rope-dancer, tumbler or wire-dancer, or company of circus-riders, or equestrian performers, or exhibitors of artificial or natural curiosities, who shall perform or exhibit in any county in this state, without previously having paid the tax herein directed, shall be liable to a forfeiture of one hundred dollars, to be collected by the sheriff, by distress and sale of the property of such delinquent, and be applied, one half to the use of the state, and the other half to the use of the sheriff.

8. *Be it further enacted.* That a tax of five dollars be, and the same be hereby laid on turnpike roads where toll is received, gates which have been or which hereafter may be at any time erected across any public road of this state, and the owners of such gates or turnpike roads, shall give in the same at the same time they give in their taxable property, and the tax shall be levied, collected and accounted for in the same manner as other taxes.

9. *And be it further enacted.* That all persons who shall bring negro slaves from another state into this state, for sale, shall pay the sheriff of some one county the sum of ten dollars upon each negro slave so brought; and it shall be the duty of the respective sheriffs in this state, and their deputies, to collect the tax hereby imposed; but if the said person or persons shall produce

On itinerant
players.

On turnpike
roads.

On negro tra-
ders.

to the sheriff of any one county, the certificate of the sheriff of any other county, duly authenticated, under the seal of the clerk of the county in which such sheriff resides, that he has paid the tax hereby imposed, he or they shall be permitted to proceed without the payment of any further tax. And it shall be the duty of the sheriff, and his deputy, of each county in which any negro slave shall be taken by any person or persons whatsoever, to seize such negro slave until the tax hereby imposed be paid, or until the person in whose possession such negro slave may be, shall produce to said sheriff, or his deputy, the receipt of the sheriff of some other county, duly authenticated as above, that the tax hereby imposed has been paid, or until he shall produce to the sheriff, or his deputy, the certificate of the clerk of some court of record of the state from which said negro slaves may have been removed, duly certified according to law, that said negro slaves are not removed for sale, which certificate shall contain the name or names of each and every negro slave so removed, and the owners or possessors of all such slaves so seized shall pay to the sheriff or his deputy, all expenses that may accrue in consequence of seizing, keeping, and feeding such slaves.

10. *And be it further enacted*, That for the year one thousand eight hundred and twenty-one, a tax of twenty cents on each and every free poll, and a tax of twenty cents on each and every black poll, shall be levied, collected and accounted for, under the same rules, regulations and restrictions as poll taxes heretofore have been collected and accounted for. Poll tax twenty cents.

11. *And be it further enacted*, That all free males between the ages of twenty-one and forty-five years, and slaves between the ages of twelve and fifty years, shall pay a poll tax, and all slaves shall be listed in the county wherein they reside. What polls taxable, and where.

12. *And be it further enacted*. That each sheriff, upon settling his accounts with the comptroller, county trustee, and county wardens within their respective counties for the preceding year, shall make and subscribe an affidavit, that he has duly accounted in his settlement for all taxes received by him under this act upon any occupation, article or thing, not included in the list of taxable property furnished by the clerk of his county, and shall append to said affidavit a list of all such taxes Sheriff's affidavit and duty on settlement.

so by him received, and the names of the persons from whom he received the same, and set forth opposite to each item, the occupation, article or thing for which the said taxes were received.

Additional oath by sheriff on settlement with comptroller. (a See 1791, c. 334, s. 6, 1819, c. 988, s. 13.)

13. *And be it further enacted*, That in addition to the oath heretofore required to be taken by the sheriff on settling with the comptroller, (a) said sheriff shall swear, that if he collects any delinquent tax beyond those accounted for in said settlement, he will render a true account thereof to the comptroller within one year after such collection; and if it shall be discovered that any sheriff, or any person by virtue of having been a sheriff, shall collect delinquent taxes, and not account for the same as herein required, such sheriff or other person shall be liable to pay four fold the amount of the sum collected and not accounted for, to be recovered in the name of the state before any jurisdiction having cognizance thereof.

CHAP. 1041.

An act concerning the marriage of infant females.

Indictable to marry under the age of 15, without the father's consent.

1. *Be it enacted, &c.* That if any person shall marry a female infant under the age of fifteen years, the person so offending shall be deemed guilty of an indictable offence, and on conviction, shall be fined at the discretion of the court: *Provided*, that this act shall not extend to cases in which the father of the female shall be living, and shall previous to the marriage have consented thereto in writing.

Superior courts exclusive jurisdiction.

2. *Be it further enacted*, That the superior courts of law shall have exclusive jurisdiction of offences arising under this act.

On conviction trustee appointed, and all right of the wife vested in him, &c.

3. *And be it further enacted*, That upon such conviction being had, it shall be the duty of the court before whom the same is had, to appoint one or more trustees to take charge of the property belonging to the female so married, and the whole estate, both real and personal, vested in the said female at the time of such marriage, and all the right, title and interest which she had at such time to any property, either at law or in equity, shall be vested in and belong to the trustee or trustees so appointed by the court, and he, she or they, shall

have full power and authority to take all such estate into his, her or their possession, and if necessary to sue for and recover the whole or any part of said property in his, her or their own name as trustee or trustees aforesaid, and the said trustee or trustees shall hold the said estate and property so received and recovered, to and for the following uses and trusts, to wit: to the sole and separate use of the said female, during the continuance of the said marriage, free and separate from the control of her husband. And upon the termination of the said marriage, if the said female shall be then living, the said trustee or trustees shall convey the said estate to the said female absolutely, and in fee simple; and if the said female shall not be then living, then the said estate shall be conveyed to such child or children as she may leave surviving her, share and share alike: and in default of such children, then the said estate to be conveyed to such person or persons as would have been distributees or heirs at law, according to the nature of the estate, if she had died unmarried, and the husband convicted of the offence prohibited in the first section of this act, shall in no case be permitted to have, hold, use or enjoy, sell or dispose of any part of the estate, to which his wife was entitled at the time of such marriage, and all sales and dispositions and releases made by him of such property before such conviction, shall be and are hereby declared to be null and void, nor shall he in case of the death of his said wife, be entitled to administration on her estate, nor to any distributive share thereof, nor to any right of courtesy therein.

4. *And be it further enacted*, That the said trustee or trustees shall give bond payable to the Judges of the superior courts of law and their successors in office, with security, in such sum as the court appointing him, her or them, shall prescribe for the faithful performance of the trusts reposed in them, and for accounting for all the profits of the estate entrusted to them, and shall be allowed such compensation for his, her or their trouble in the management of such estate as the court shall direct: and the superior courts shall have power at any time, when sufficient cause is shewn to them, to remove the said trustee or trustees, and appoint others in their stead, who shall have the same powers and authorities, and be governed by the same rules, as the first appointed trustee or trustees.

Trustee to give bond.

Court's power over him.

Where parents or guardian live out of the state, their certificate to be produced to the clerk.

5. *Be it further enacted*, That in all cases where a license is applied for to marry a female whose parents or guardian reside without the limits of this state, it shall be the duty of the person so applying, to produce to the clerk of the county court, or any other person legally authorised to grant license to marry, a certificate in writing from under the hand of the parent or guardian of said female, as the case may be, stating that she has arrived to the full age of fifteen years, and has leave to marry, which certificate shall be filed in the clerk's office in the county where the license was obtained.

Penalty on clerk for issuing license contrary to this act.

6. *Be it further enacted*, That if any clerk, or any other person legally authorised to issue licenses to marry, shall give, grant or issue any license contrary to the true intent and meaning of this act, he shall forfeit and pay the sum of one thousand dollars, to be recovered in any court of justice having cognizance of the same.

CHAP. 1042.

An act concerning the clerks of the courts of pleas and quarter sessions.

Twelve months absence from the county shall disqualify.

1. *Be it enacted, &c.* That it shall not be lawful for any clerk of the court of pleas and quarter sessions in any county of this state, to retain his office after he shall have resided out of the county wherein he was appointed clerk, for more than twelve months.

Course to be pursued.

2. *Be it further enacted*, That when any clerk of the court of pleas and quarter sessions shall have resided out of his county for more than twelve months, it shall be lawful for the court, on application of any person so applying, to grant a rule on such clerk, returnable to the next court of pleas and quarter sessions of such county, to shew cause, if any he has, why he shall not be removed from his office, for so removing himself out of his county, which rule shall be served on such clerk, if he resides in the state, and on the return of such rule, if it shall be made appear to the satisfaction of said court, that such clerk has so removed, it shall be the duty of said court to vacate his office, and elect another clerk, according to the now existing laws, to supply his

place. But in case such clerk resides out of the state, it shall be sufficient service of said rule, to have it published, by order of the court, for two months in any newspaper at the seat of government in this state; which publication being made appear at the next court, and proof being made to the satisfaction of said court, of such removal, it shall be the duty of said court, and they are hereby required to remove such clerk from his office in the same manner, and for the same cause, as in case of actual service of the rule, any law to the contrary notwithstanding.

CHAP. 1043.

An act to authorise the supreme court to hear parol evidence in certain cases. (See 1813, c. 962 and 963.)

1. *Be it enacted, &c.* That all exhibits or other documents relative to cases in equity, now pending, or which may hereafter be pending in the supreme court, may be proved by the parol testimony of a witness or witnesses, to be examined in said court in the same manner, and under the same rules, as such exhibits or documents may be proved in the superior courts: and suitors in said court shall have subpoenas to enforce the attendance of witnesses, who shall be liable to the same penalties and actions for non-attendance, and be entitled to the same compensation for travelling, ferriage and attendance as witnesses in the superior courts: *Provided always*, that the witnesses attending the supreme court, shall be taxed in the bills of costs and paid by the party on whose behalf they may be summoned.

Exhibits in cases in equity may be proved by parol testimony in supreme court.

Subpoenas may issue.

Party to pay his own witnesses.

2. *And be it further enacted*, That this act be in force from the passing thereof.

CHAP. 1044.

An act to explain the duties of county courts, of executors and administrators, and of guardians in certain cases therein mentioned, and for other purposes.

1. *Be it enacted, &c.* That where any orphan or orphans residing in any other state or territory, or who may have removed from this to any other state or ter-

Guardians appointed in another state may

demand property.

ritory, shall be entitled to any personal property in this state, by bequest, gift, or as the next of kin to any person dying intestate or otherwise; it shall and may be lawful for any guardian or guardians of such orphan or orphans, regularly appointed in the state where they reside, upon producing a copy of his, her or their appointment, properly authenticated, and upon making it appear to the court of the county in which the property may then be, that security has been given in a sum amply sufficient to cover all the personal estate, to which said orphan or orphans may be entitled, and also the profits of the landed estate if any; to call upon any executor or executrix, administrator or administratrix, or guardian, having in his or her possession any personal estate to which the said orphan or orphans may be legally entitled, or any monies or debts for which he or she may be liable to account for, rents of the landed estate, hire of negroes, or otherwise, for a settlement by petition or bill in equity in the usual way: and it shall be the duty of the said executor or executrix, administrator or administratrix, or guardian, to account with such guardian or guardians so as aforesaid appointed, as fully and completely as they would be bound to account with the orphans themselves, were they of lawful age: *Provided*, nothing herein contained shall be construed to compel any executor or executrix, administrator or administratrix, to account in a shorter period than they are now by law bound to do, or to exempt such guardian or guardians from giving the usual re-funding bonds.

Proviso.

If no guardian in the county, how the foreign guardian to get possession of the property.

2. *Be it further enacted*, That upon any guardian or guardians producing to the court of the county in which there may be any personal estate belonging to his or their ward or wards authenticated copies of his or their appointment, by the proper authority of the state or territory in which the said ward or wards may reside; and it so happens that there is no guardian at the time in the county in which the said estate may then be, that it shall be lawful for such guardian or guardians upon filing in said court, authenticated copies of their appointment as guardians; and making it appear to said court that security has been given, in a sum amply sufficient to cover all the estate to which his or their ward or wards may be entitled: to take said property into his or their possession, and to remove it to the

state or territory in which their ward or wards may reside.

3. *Be it further enacted*, That this law shall take effect immediately after the passage thereof.

CHAP. 1045.

An act to extend the jurisdiction of justices of the peace.(a)

(a See 1803 c. 627, 1804, c. 650.)

1. *Be it enacted, &c.* That the jurisdiction of justices of the peace within this state, be, and is hereby extended to all sums due on bonds, notes, and liquidated accounts not exceeding one hundred dollars: *Provided nevertheless*, that no longer stay of execution shall be allowed on all judgments above sixty dollars than is already prescribed by law for the stay of executions for sums above twenty dollars.(b)

Jurisdiction extended to \$100.

Stay of execution.

(b six months—see 1794, c. 414, s. 1.)

2. *And be it further enacted*, That in future, it shall be the duty of the several county courts in this state, to require of the persons appointed to the office of constable to enter into bond(c) with approved security in the sum of four thousand dollars, instead of two thousand dollars as now required by law.

Constables bonds to be for \$4000.

(c See 1818, c. 980, s. 1.)

3. *And be it further enacted*, That all suits hereafter commenced in the superior or county courts in this state, on any bond, promissory note or liquidated account for a less sum than one hundred dollars, shall be abated on the plea of the defendant. Nothing in this act contained shall prevent either party from an appeal to the county or superior court.

Suits for less than 100 dollars may be abated.

Right of appeal.

CHAP. 1046.

An act to amend an act passed in the year 1817, entitled "an act concerning promissory notes and other negotiable instruments."(d)

(d See 1817, c. 937.)

Be it enacted, &c. That from and after the ratification of this act, in all cases where there are more obligors or endorsers than one, on any promissory note or other negotiable instrument, and the plaintiff should think proper to institute suit against more than one or all of them, the suit or suits respectively on the return of the writs to the court from whence they issued shall be consolidated, so that but one set of costs shall accumulate

Suits against obligors or endorsers shall be consolidated.

thereon, except as to the sheriff and clerk's fees for serving and issuing the said writs, which shall be the same as heretofore; any law, usage or custom to the contrary notwithstanding.

CHAP. 1047.

An act concerning coroners.

Coroners to give bond in 2000 dollars.

(a For their appointment, see 1777, c. 118, s. 14, 1816, c. 961.)

To renew their bonds annually.

1. *Be it enacted, &c.* That from and after the ratification of this act, it shall be the duty of all coroners heretofore appointed and now in office, or any that may hereafter be appointed, to give bond and sufficient security in the sum of two thousand dollars, payable to the governor or his successors, to be approved of by the court of the county in which he resides.(a)

2. *And be it further enacted,* That all coroners shall renew their bonds the first court after the first day of April in each year, or be no longer considered capable of holding said office; any law, usage or custom to the contrary notwithstanding.

CHAP. 1048.

(See 1819, c. 1008, 1809, c. 769.)

An act directing the county court to pay fees to certain officers therein named in certain cases.

County court to order payment of costs in criminal prosecutions, in certain cases.

Be it enacted, &c. That in all criminal prosecutions in the county or superior court, when the defendant shall be acquitted and the court shall not think proper to order the prosecutor to pay the costs, or where the defendant, if convicted, shall be insolvent, and incapable to pay costs, the sheriff, clerk or constable, who may be entitled to fees in said prosecution shall render to the county court an accurate fee bill, enumerating the costs due each officer, and upon presenting the same to the county court, it shall be, and is hereby declared to be, the duty of such court, to order and decree that the county trustee shall pay to them and each of them, the amount of their respective fees, as contained in the fee bill aforesaid, any law to the contrary notwithstanding.

CHAP. 1049.

An act to authorise the treasurer of this state to appropriate the surplus money to the purchase of bank stock.

Be it enacted, &c. That the treasurer of this state be, and he is hereby authorised and directed, to appropriate the surplus money in the treasury, which has not been appropriated by law, to the purchase of bank stock, at the lowest price at which it can be obtained, not exceeding in any instance the par value thereof.

The treasurer authorised to purchase bank stock.

CHAP. 1050.

An act allowing compensation to the members of the Senate and House of Commons of this state, and to the officers of both houses,

1. *Be it enacted, &c.* That at the present General Assembly, and at every session of the same hereafter, each Senator and member of the House of Commons shall be entitled to receive three dollars for every day he shall attend the Senate or House of Commons, and shall also be allowed his necessary ferriage and the sum of three dollars for every thirty miles of the estimated distance of going and returning by the most usual road from his place of residence to the seat of government; and in case any member of the Senate or House of Commons shall be detained by sickness on his journey to or from any such session, or after his arrival shall be unable to attend the Senate or House of Commons, he shall be entitled to the same daily allowance as if he had attended regularly in his place.

Members' pay 3 dollars a day, &c.

If absent by sickness, pay allowed.

2. *And be it further enacted,* That the speaker of the Senate and the speaker of the House of Commons of the present General Assembly, and at each session hereafter, shall each be entitled to receive the sum of four dollars for every day he shall attend the Senate or House of Commons, and shall also be allowed the same mileage going to and from the seat of government as is allowed to members of the Senate or House of Commons, and in case either of them shall be detained by sickness on his journey from any such session, or after his arrival shall be unable to attend the Senate or House of Commons, he shall be entitled to the same daily allowance as if he had attended regularly in his place.

Speakers' pay 4 dollars.

Same provision for sickness.

Clerks' allowance.

3. *And be it further enacted*, That there shall be allowed as a compensation to the clerks and officers of the Senate and House of Commons of the present General Assembly the same compensation as heretofore, and at every session of the same hereafter the following sums: to each principal clerk the sum of six dollars for his daily attendance and services; to each assistant clerk the sum of six dollars for his daily attendance and services; to each engrossing clerk the sum of four dollars for his daily attendance and services; and to each door-keeper the sum of three dollars for his daily attendance and services.

Principal clerks' additional allowance.

4. *And be it further enacted*, That there shall be allowed annually to each of the principal clerks of both houses the sum of sixty dollars, as a full compensation for transcribing the journals of each house for the public printer, and for taking care of the books, papers and effects of each house, and all other incidental services attached to their office; and the principal clerks, assistant clerks, and the door-keepers of both houses, and also the engrossing clerks, shall each be allowed the sum of three dollars for every thirty miles of the estimated distance in going and returning by the most usual road from the seat of government to his place of residence, and also their ferriages.

For travelling and ferriage to all.

Compensation how ascertained and certified.

5. *And be it further enacted*, That the compensation which shall be due to the members and officers of the Senate shall be ascertained by the principal clerk, and certified by the speaker thereof, and that which shall be due to the members and officers of the House of Commons, and to the engrossing clerks, shall be ascertained by the principal clerk of the House of Commons, and certified by the speaker thereof, and the same shall be passed as public accounts, and paid by the treasurer.

CHAP. 1051.

An act for establishing a college in the western part of the state of North-Carolina.

Whereas learning is vitally important to a republican government, and the establishment of several public seminaries in a state is the best means of diffusing virtue and knowledge among the citizens thereof, and it

ting them for the correct and honorable discharge of social duties: and whereas the more western counties in this state are distant from Chapel Hill, which renders it inconvenient for their youth to prosecute their education there:

1. *Be it therefore enacted, &c.* That the Rev. James M'Ree, George L. Davidson, Thomas G. Polk, Rev. Samuel C. Caldwell, Joseph Picket, Rev. John M. Wilson, Isaac T. Avery, John Nesbit, John M. Greenlee, Rev. John Robinson, John Puffer, Montfort Stokes, Robert H. Burton, Lawson Henderson, Rev. Humphrey Hunter, Rev. Henry Kerr, Meshack Franklin, Samuel Davidson, John M'Entire, Rev. Robert J. Miller, Thomas Lenoir, Rev. James Kilpatrick, James Patton, John Culpepper and Charles Stork, be, and they are hereby declared to be a body politic and corporate, to be known and distinguished by the name of the Trustees of the Western College of North-Carolina, and by that name shall have perpetual succession and a common seal, and that they the trustees and their successors, by the name aforesaid, or a majority of them, shall be able and capable in law to take, demand, receive and possess all monies, goods and chattels that shall be given them for the use of the said college, and the same apply according to the will of the donor; and by gift, purchase or devise to take, have, receive, possess, enjoy and retain to them and their successors forever, any lands, rents, tenements and hereditaments of what kind, nature or quality soever the same may be, in special trust and confidence, that the same, or the profits thereof, shall be applied to and for the use and purposes of establishing and endowing the said college.

2. *And be it enacted.* That the said trustees and their successors, or a majority of them, by the name aforesaid, shall be able and capable in law to bargain, sell, grant, demise, alien or dispose of, and convey and assure to the purchaser or purchasers, such lands, rents, tenements and hereditaments aforesaid, when the condition of the grant to them or the will of the devisor does not forbid it: *And further.* that the said trustees and their successors forever, or a majority of them, shall be able and capable in law, by the name aforesaid, to sue and implead, be sued and impleaded, answer and be answered in all courts of record whatever; and they shall have power to open and receive subscriptions, and

The Western College of N. Carolina incorporated.

What property may be acquired and held, &c.

General powers of the trustees.

in general, they shall and may do all such things as are usually done by bodies corporate and politic, or such as may be necessary for the promotion of learning and virtue.

Time and place of meeting.

May elect other trustees.

Number required for business.

Special meeting—advertisement thereof.

Powers of such meeting.

The meeting for fixing on the site to be advertised.

3. *And be it further enacted*, That the aforesaid trustees, in order to carry this act into effect, shall meet at the court-house in Lincolnton on Monday the seventh day of May next, at which time they shall choose a president and secretary, and may, if they adjudge it conducive to the public interest, elect a number of other trustees at said meeting, or at any future meeting, not exceeding twenty, who, when so elected, shall have the same powers and privileges and be under the same regulations in all respects as those by this act appointed; and they shall fix the time of their annual meetings, and they may appoint special meetings within the year, and have power to adjourn to such time and place as they may think proper; and at each annual meeting of the trustees, the members present, with the president and secretary, shall be a quorum to do any business; or the majority of the members, without either of those officers, shall be a quorum: but at their first meeting as above directed, there shall be at least a majority of the above trustees present, in order to proceed to business; but the members present, provided a majority should not attend at the above mentioned time and place, shall have power to adjourn to any other day, and from time to time until a majority shall attend: if any unforeseen accident may render a meeting necessary, the secretary, by order of the president and any two of the trustees, signified to him in writing, shall, by particular notice to each trustee, as well as by an advertisement in the State Gazette, convene the trustees at the time and place proposed by the president: and the members thus convened, shall be a quorum to do any business, except the appointment of a president or professors in the said college, or the disposal or appropriation of monies: but in the case of the death or resignation of the president or any professor, the trustees thus convened may supply the place until the next annual meeting of the board of trustees, and no longer; and the meeting at which the seat of the said college may be fixed shall be advertised in the Gazette of this State at least three months, stating the time, place and object of said meeting.

4. *And be it further enacted*, That the said trustees, or a majority of them, at a meeting to be advertised as aforesaid, shall fix the site of said college some where to the south-west of the Yadkin River, and procure lands on which to fix the same and erect the necessary and proper buildings, whenever they may adjudge the funds of said college may be adequate to the same, paying particular regard to have it fixed on some convenient and healthy situation.

Site where to be fixed, and buildings to be erected.

5. *And be it further enacted*, That the trustees shall elect and commission some person to be treasurer for the said college during the term of three years, which treasurer shall enter into bond with sufficient security to the governor for the time being, in the sum of ten thousand dollars, conditioned for the faithful discharge of the duties of his office, and the trust reposed in him, and that all monies and chattels belonging to the said corporation, that shall be in his hands at the expiration of the term of his appointment to said office, shall then be immediately paid and delivered into the hands of the succeeding treasurer, and every treasurer shall receive all monies, donations, gifts, bequests and charities whatsoever that may belong or accrue to the said college, during his office; and at the expiration thereof shall account with the trustees for the same, and the same pay and deliver over to the succeeding treasurer; and on his refusing or on neglect to pay and deliver as aforesaid, the same method of recovery may be had against him as is or may be provided for recovery of monies from sheriffs or other persons chargeable with public monies: and the treasurer of said college shall cause annually to be published in the State Gazette, for the satisfaction of the subscribers and benefactors, a list of all monies and other things by him received for said university, either by subscription, legacy, donation or otherwise, under a penalty of two hundred dollars, to be recovered in the name of the governor for the time being, in any court of record having cognizance thereof, to be appropriated to the said college.

Treasurer appointed.

His duties, &c.

Donations to be published.

6. *And be it further enacted*, That on the refusal to act, death, resignation or removal out of the state of any of the trustees for the time being, it shall be lawful for the remaining trustees, or any fifteen of them, and they are hereby authorised and required to elect and appoint a trustee or trustees in place of those dead, re-

Vacancies in the board to be filled.

fusing to act, resigned or removed, which trustee or trustees so appointed shall be vested with the same powers, trust and authorities as the trustees are by virtue of this act.

Power to appoint president, professors, &c. of college, and to remove them, and to make laws and regulations, &c.

7. *And be it further enacted*, That the trustees shall have the power of appointing a president of said college and such professors and tutors as to them shall appear necessary and proper, whom they may remove for misbehaviour, inability or neglect of duty, and they shall have the power to make all such laws and regulations for the government of said college, and preservation of order and good morals therein, as are usually made in such seminaries, as to them may seem necessary; *Provided*, the same are not contrary to the unalienable rights of a citizen or to the laws of the state. And the faculty of said college, that is to say, the president and professors, by and with the consent of the trustees, shall have power of conferring such degrees as are usually conferred in colleges or universities.

Faculty to confer degrees.

College land exempt from taxation.

8. *And be it further enacted*, That the land and other property belonging or which may belong to the said college, shall be and is hereby exempt from all kind of public taxation.

No gaming allowed within 10 miles.

9. *And be it further enacted*, That no person shall set up any gaming table or any device whatever for playing at any game of hazard within ten miles of said college, or having set up the same, shall continue it after the establishment of said college, any person or persons so offending shall forfeit and pay the sum of two hundred dollars, to be recovered in any court of record having cognizance of the same, one half to the use of the informer, and the other half to the use of the said college.

CHAP. 1052.

An act for clearing out and deepening the swash or swashes at Ocracoke Inlet, and improving the navigation of the same.

Commissioners appointed.

1. *Be it enacted, &c.* That Alex. Henderson, John Harvey, Moses Jarvis, Stephen M. Chester, Silvester Brown, David Wallace, Thomas S. Singleton, John Little and William A. Blount, be, and they are hereby appointed commissioners for receiving subscriptions, to the amount of fifty thousand dollars, for the purpose of clearing out and deepening the swash or swashes at

Ocracock Inlet, and improving the navigation of the same. And the said commissioners, or a majority of them, shall prepare books, and cause the same to be opened at such places, and under the direction of such persons as they may appoint, and the said books shall be opened on or before the first day of April next, and shall continue open until the first day of June following, at which time the said books shall be returned to the said commissioners, in the town of Newbern; and at the same time there shall be a general meeting of the subscribers in the said town, either personal or by proxy; and such meeting may continue from day to day until the business thereof be finished. And if it shall appear, that two hundred and fifty shares or more of the said capital sum have been subscribed, the said subscribers, their heirs and assigns, from the time of the said first meeting, shall be, and they are hereby declared to be incorporated into a company, by and under the name of the Ocracock Swash Company; and may sue and be sued as such; plead and be impleaded, defend and be defended, have perpetual succession and a common seal: and such of the said subscribers as may be present at the said meeting, or a majority of them, are hereby empowered and directed to elect a president and four directors, for conducting the said undertaking and managing all the said company's business and concerns, for and during the term of one year, and thence until the next general meeting of the stockholders. And in counting the votes of all the general meetings of said company, each member shall be allowed one vote for every share as far as five shares: and one vote for every four shares above five shares, by him or her held at the time of the said general meeting. And every proprietor, by writing under his or her hand, executed before one subscribing witness, and acknowledged or proved before a justice of the peace, may depute any member to act as a proxy for him or her at any general meeting or meetings: and the presence and acts of such proxy shall be as effectual to all intents and purposes as the presence and acts of his or her principal might be.

Books to be opened.

General meeting.

Style of the corporation, &c.

Officers.

Votes regulated.

Proxy.

2. *And be it further enacted*, That if two hundred and fifty shares shall not have been subscribed at or before the said general meeting of the stockholders, the said commissioners shall again open books for receiving further subscriptions, at such time or times and at such

Books may be again opened.

If an excess of subscriptions, how to be reduced.

(a See 1812, c. 848, s. 1.)

How subscriptions to be taken, &c.

Books of the company evidence of the sale of stock.

Shares how paid, and remedy for the money.

Place of general meeting.

places, and under the directions of such persons as they shall appoint, and shall give notice in the newspaper, printed in the town of Newbern, of the day on which said books shall be returned; and when the said number of two hundred and fifty shares shall be subscribed, the stockholders, in general meeting, shall proceed to elect a president and directors, of the said company as aforesaid. And if more than five hundred shares shall be subscribed, the said commissioners, may, if they think proper, strike off from the said subscriptions until the number be reduced to five hundred; and in striking off, the said commissioners shall proceed in the manner prescribed in the first section of an act passed in the year 1812, entitled "An act for improving the navigation of Roanoke river from the town of Halifax to the place where the Virginia line intersects the same." (a)

3. *Be it further enacted*, That the capital sum aforesaid shall be divided into shares of one hundred dollars each; any person may subscribe for one or more shares, but not for part of a share. The capital sum aforesaid may be enlarged from time to time, at the discretion of the stockholders, or a majority of them in general meeting. Should the said capital sum be insufficient to complete the navigation, the president and directors may open books from time to time, to receive subscriptions to increase the capital stock of said company. And whereas, shares may be sold by the president and directors for balances due thereon; *Be it enacted*, that the books of the said company shall be good evidence of such sale, and of the purchase of said shares.

4. *Be it further enacted*, That the shares shall be paid for at such times and places, and by such instalments as the president and directors of said company shall direct; they first advertising the same in at least two newspapers printed within this state, thirty days before the time when payment is required; and if any person or persons holding any share or shares in said company, shall fail to pay for the same in the manner, and at the time prescribed by the president and directors as aforesaid, the said president and directors may proceed to enforce said payments by legal process, or declare the same to be forfeited, as they may prefer.

5. *Be it further enacted*, That the general meetings of the said company shall be in the town of Washington, or at such other places as the stockholders in general meeting shall order and direct.

6. *Be it further enacted*, That the said president and directors shall have the power of collecting a toll on all vessels drawing more than seven feet water, when passing the swash, from the owner or owners, commander or commanders thereof, in such manner or way as the president and directors shall prefer. And that the president and directors shall have power to regulate and determine the tolls which shall be paid, and from time to time alter the said tolls: *Provided*, that the tolls shall be so fixed that the profits arising therefrom shall not in any one year exceed fifteen per cent. upon the capital stock actually paid for the purposes of said navigation, after payment of the sums allowed annually to the officers of said company, expenses incurred for repairs and other incidental charges; and the said toll shall be so apportioned as to do equal and impartial justice, as near as may be, to all passing over the said swash. The General Assembly may from time to time call upon the president and directors for an account of the monies actually paid for the purposes of the said navigation and the amount of the tolls received, which account shall be rendered upon oath.

Power of regulating and collecting toll vested in president and directors.

General Assembly may call for an account.

7. *And be it further enacted*, That the right of collecting tolls as aforesaid granted, shall be vested exclusively in said president and directors of said company: *Provided nevertheless*, that a period of ten years is hereby allowed the said company, to complete and improve the navigation as contemplated by this act. And if the said navigation shall not be improved or completed as thus contemplated within said term, all exclusive preference granted said company shall cease and determine.

Time for completing the work.

8. *And be it further enacted*, That the incorporation granted by this act, and all the rights and privileges incident thereto, shall cease and determine at the expiration of fifty years.

Corporation limited.

9. *And be it further enacted*, That this act shall take effect as soon as the consent of the congress of the United States is obtained thereto. And his excellency the governor be, and he is hereby required to take measures to obtain the same.

Assent of Congress to be obtained.

CHAP. 1053.

An act limiting the time within which judgments before a justice of the peace may be revived.

Three years from the date of the judgment. *Be it enacted, &c.* That hereafter no action, suit, scire facias or other process, to revive or enforce a judgment obtained before a justice of the peace, shall be commenced, brought or sued out, but within three years from the date of such judgment, or from the date of the last execution lawfully issuing on the same; but every such action, suit, scire facias or other process commenced, brought or sued out, after the expiration of the time aforesaid, shall be, and is hereby declared to be void, and may be abated on the plea of the defendant; any law, usage or custom to the contrary notwithstanding.

CHAP. 1054.

An act compensating the commissioners appointed by virtue of an act of the General Assembly, passed in the year one thousand eight hundred and nineteen, for surveying and selling the public lands adjoining the city of Raleigh. (a)

(a See 1819, c. 991.)

Three dollars per day allowed. *Be it enacted, &c.* That each and every one of the commissioners mentioned in the before recited act shall be entitled to, and receive, three dollars per day, for each and every day they were engaged about surveying and selling the lots of land mentioned in said act, and the same for travelling to and from the city of Raleigh; to be paid upon warrant of the governor upon the treasurer, who shall be allowed the same in the settlement of his public accounts.

CHAP. 1055.

An act to quiet the title of persons in possession of slaves.

Title to slaves by possession, under the act of limitations, made absolute. (b See 1715, c. 2, s. 5.) *Be it enacted, &c.* That whenever any person or persons shall remain in the possession of a slave or slaves until such possession is protected by the statute of limitations; (b) the person or persons so in possession and those claiming under them, shall be deemed and held to

have a good and absolute title to such slave or slaves against all persons whose claim is barred by said statute of limitations: *Provided*, that nothing herein contained shall in any way affect the law now in force, that requires all gifts of slaves to be by deeds of gift.

Proviso.

CHAP. 1056.

An act to regulate the proceedings in suits against corporations.

1. *Be it enacted, &c.* That in all actions or suits which may be instituted against any corporation, instead of the process heretofore used to compel the appearance of such corporation, it shall be sufficient to issue a summons to the sheriff or other proper officer, reciting the cause of action, and summoning the said corporation to appear and answer the same on the proper return day; which summons shall be returnable in the like manner and subject to the same rules and regulations as other original process.

In suits against corporations, summons to issue.

2. *And be it further enacted*, That if a summons be issued as aforesaid against any banking, turnpike, navigation, insurance, or other incorporated company, service on the president or other head, or, in his absence, on the cashier or treasurer, or in the absence of both the president or chief officer and the cashier or treasurer, then on any director of such company; such president or other officer being at the time of such service in the county in which he usually resides, shall be deemed sufficient service of the summons; and if the summons be issued against the corporation of any city or town, service on the chief magistrate, or, in his absence, on any commissioner of such city or town, such chief magistrate or commissioner being at the time of service within the limits of such corporation, shall be deemed sufficient; and in like manner the service of such summons on the president, or, in his absence, on any trustee of any incorporated college or academy, or on the chief officer of any other corporation whatever, or, for want of such chief officer, on any member of such corporation, such president, trustee, chief officer, or other member, being at the time of the service within the county in which he usually resides, shall be deemed sufficient, and on the return of such summons, served in

On whom to be served.

How returned.

manner aforesaid in any of the said cases, the same proceedings to a final judgment shall be had against such corporation as are had in other suits at law after the return of a *capias ad respondendum* executed; on every summons served as aforesaid, the sheriff or other proper officer shall make return distinctly on whom the same hath been executed, otherwise such service shall not be deemed valid.

Suits in equity to commence by subpoena.

3. *And be it further enacted*, That suits in equity against corporations shall hereafter commence by subpoena; and the service of such subpoena, and of all interlocutory orders and decrees, shall be made in the same manner and under the same restrictions as is herein before provided for the service of a summons in a suit at law, and the same proceedings to a final decree shall be had against such corporations as are had in other suits in equity.

What writs of execution, and how levied.

4. *And be it further enacted*, That if any judgment at law or decree in equity shall be rendered against any corporation, it shall be lawful for the plaintiff or complainant in the suit to sue out either a *distringas* or *fieri facias*, as he may think proper; and that the said writs of *distringas* or *fieri facias* may be levied as well on the current money as on the goods, chattels, lands and tenements of the said corporation.

Repealing clause.

5. *Re it further enacted*, That all laws and clauses of laws coming within the meaning and purview of this act, are hereby repealed.

6. *And be it further enacted*, That this act shall be in force from and after the ratification thereof.

CHAP. 1057.

An act in aid of an act passed by the Legislature of Virginia, entitled "An act incorporating a company to establish a communication between the waters of Roanoke River and those which fall into Chowan River, and the rivers and other water courses intermediate between any of them and the river Potomac."

Preamble.

Whereas the Legislature of the state of Virginia did, on the twenty-sixth day of February, one thousand eight hundred and eighteen, pass an act, entitled "An act incorporating a company to establish a communication between the waters of Roanoke River and those which fall into Chowan River, and the rivers and other water

courses intermediate between any of them and the river Potomac;" the objects of which said act are for the most part succinctly expressed in the title thereof: And whereas it is represented to this present General Assembly, that the stock by the said act authorised to be taken hath been subscribed for, and that a company hath been duly formed and organized under the authority of that act, for the purpose of carrying the same into execution; but that the said company cannot, with convenience, effect the proposed communication between the waters of Roanoke and Chowan Rivers, and those of James River and the tributary streams thereof, and particularly between Barnett's Creek, which empties into Chowan River and Nansmond River, in Virginia, for want of sufficient authority to cut canals through, and to construct locks, make roads, erect toll-houses and other buildings, and establish gardens where they may be necessary or proper, on lands situate in the state of North-Carolina: And whereas the completion of so great a work as that contemplated by the said act of the Virginia Legislature, will afford peculiar benefits and advantages to a great portion of the good citizens of this state, and will be of the highest importance to the public at large; therefore,

1. *Be it enacted, &c.* That it shall and may be lawful for the company aforesaid, formed under the authority of the said act of the Legislature of Virginia, or for the president and directors thereof, or a majority of them, and they are hereby authorised and empowered, for the purpose of effecting the contemplated communication between the waters of the said rivers Roanoke, Chowan and Nansmond, or the tributary streams thereof, to cut such a canal or canals, and construct such lock or locks, and to make and establish, contiguous to such canal or canals, such road or roads, and erect such toll-houses or other buildings, and establish such gardens as in their judgment may be expedient or necessary, through and upon the land or lands of any person or persons whatever, which they may select for that purpose, any law, usage or custom to the contrary notwithstanding, so that the land on any route selected for the purposes aforesaid, shall not exceed three hundred feet in width: *Provided nevertheless*, that all damages occasioned by cutting such canal or canals, constructing such lock or locks, and making such roads and erecting

Power given to the company to extend their canals and other works into this state.

such toll-houses or other buildings, and establishing such gardens through or upon the land or lands of any person or persons, shall be valued by the county court in which such land or lands may be situate, or by three freeholders on oath, to be chosen by such court, which value shall be paid to the proprietor or proprietors of such land or lands, by the said company, or by the president and directors thereof, or a majority of them, and upon condition that such canal or canals shall be cut and lock or locks shall be constructed of sufficient width and depth to be navigable in ordinary seasons for boats or vessels fifteen feet wide, and drawing three feet water; and such lock or locks shall moreover be at the least ninety feet long in the clear, and upon condition also that the work aforesaid, or such part thereof as that on which the said company shall claim tolls, be completed within eight years from the seventh day of September last; and the said canal or canals, lock or locks, roads or roads, toll-houses and other buildings and gardens, shall, from and after the period at which the damages aforesaid shall be paid, enure to the only proper use, benefit and behoof of the said company, and be subject to the exclusive and absolute control of the company or of the said president and directors, or a majority of them.

Power to increase their capital.

2. *And be it further enacted*, That the capital of said company, if in the opinion of the said president and directors, or a majority of them, it shall be insufficient for the completion of said work, may be increased in the mode authorised by the said act of the legislature of Virginia, or in such other manner and by such other means as the said president and directors, or a majority of them, may seem to be expedient. And the tenure by which, and terms and conditions, rights and privileges on and with which shares and stock in the said company shall be held, and the mode of transferring the same, shall be such as are directed and established by the said act of the Virginia legislature.

And to demand and enforce payment of tolls.

3. *And be it further enacted*, That the said president and directors shall have power and authority to demand such tolls, as are directed, and enforce the payment thereof, in such manner as is authorised by the said act of the Virginia legislature.

4. *And be it further enacted*, That the said company denominated "the Virginia Canal and Navigation Com-

pany," shall be, and they are hereby declared to be incorporated by that name, and may sue and be sued as such; which said company and the president and directors thereof shall, for the collection of their debts, and management of their concerns, in the state of North-Carolina generally, have like power and authority as is vested in them for the collection of their debts and management of their concerns generally in Virginia.

The company incorporated in this state.

And whereas, it hath been represented to this General Assembly that sundry public spirited persons are willing and anxious, on account of the great public advantage to result from the completion of the laudable and important work aforesaid, to promote the same by voluntary but conditional contributions.

5. *Be it further enacted*, That the said president and directors, or a majority of them, shall be, and are hereby authorised to receive and take conditional subscriptions and to enforce the payment thereof, in like manner, and on like terms as is directed by the said act of the Virginia legislature in reference to conditional subscriptions authorised by that act, to be received, taken and recovered by the said president and directors, in the said state of Virginia.

To receive conditional subscriptions.

6. All acts and parts of acts coming within the purview of, and contrary to this act, shall be, and the same are hereby repealed.

Repealing clause.

7. This act shall be in force from and after the passing thereof.

CHAP. 1058.

An act to authorise commissioners to erect a house in the town of Fayetteville, for the safe-keeping of the public arms. (a See 1819, c. 1027.)

Whereas the public arms in the town of Fayetteville are now stored in a private warehouse, and are annually of considerable cost to the state, while they are injured materially by not being properly attended to: And whereas, the officers of the Fayetteville corps of artillery have two field pieces, which they hold for the use of the state, but for which they have no suitable house.

1. *Be it therefore enacted*, &c. That George T. Hearsey, Abraham Stevens, Henry Aycars, Thomas Tryon and Jesse Birdsall be, and they are hereby appointed commissioners, with full power and authority to con-

Commissioners appointed to build a house as a depository of public arms.

tract for a suitable lot of ground in the town of Fayetteville, to buy the same, and thereon to erect a building of brick, in which shall be deposited all the arms belonging to the state which are now in Fayetteville, or which at any future time may be placed there; and in which the officers of the Fayetteville corps of artillery may and shall have power and authority to keep and deposite all the pieces of artillery which they now hold, or may hereafter hold, to the use of the state.

Three commissioners to act.

The house and lot to belong to the state.

Public arms to be deposited, &c.

Treasurer to advance 750 dollars to the commissioners, who are to report to the governor.

2. *And be it further enacted*, That the said commissioners, or any three of them, have full power and authority to act in the premises, and that the lot of ground which they may purchase as aforesaid, shall by them be purchased in the name of the governor of this state, and the house to be by them built thereon, shall be the property of the state, and be kept and reserved for the storage of arms.

3. *And be it further enacted*, That as soon as the said house is erected, it shall be the duty of the said commissioners to have the public arms now in Fayetteville removed thereto, and shall see in future that they are kept in good order.

4. *And be it further enacted*, That to enable the said commissioners to buy a lot of ground, and to build a house for the purposes aforesaid, the governor of this state is hereby authorised and required to issue his warrant to the public treasurer for seven hundred and fifty dollars, in favor of said commissioners, who are hereby required, upon the completion of the works, to deliver to the governor the deed for the lot, and a correct account of the expenditures authorised by this act.

CHAP. 1059.

(a See 1818, c. 969.) An act granting further time to perfect titles to lands within this state.(a)

Time extended to first January, 1823. 1. *Be it enacted, &c.* That the time for perfecting titles on all entries on vacant lands within this state, made since the year one thousand eight hundred and nine, and upon which the purchase money shall or may have been paid in due time, shall be and the same is hereby extended to the first day of January, one thousand eight hundred and twenty-three: *Provided*, no-

thing contained in this act shall affect the rights of persons claiming under grants bona fide issued, since the year one thousand eight hundred and nine, or under entries bona fide made since the same period. Proviso.

2. *And be it further enacted,* That this act shall be in force, from, and immediately after the ratification thereof.

CHAP. 1060.

An act to authorise the governor of this state to direct the sale of the lands lately acquired by treaty from the Cherokee Indians which are yet unsold. (a See 1819, c. 997.)

1. *Be it enacted, &c.* That the governor of this state be, and he is hereby authorised and empowered, to direct the sale of so much of the lands lately acquired by treaty from the Cherokee Indians as have been surveyed and yet remain unsold, at such time and place as he may deem proper, under the direction and superintendence of two commissioners, to be by him appointed for that purpose, after having first advertised the same for one month in the public newspapers published at this place, which sale shall be kept open for one week and no longer. Governor to appoint commissioners to sell the lands.

2. *And be it further enacted,* That the commissioners who may be appointed by authority of this act, shall each give bond and security in the sum of twenty-five thousand dollars, payable to the governor for the time being, for the faithful performance of the duties of their appointment, and that they shall receive the same compensation for their services per day, as was allowed the commissioners appointed by virtue of an act passed the last session of this General Assembly, entitled "an act prescribing the mode of surveying and selling the lands lately acquired by treaty from the Cherokee Indians." Commissioners to give bond
(b See c. 997.)

3. *And be it further enacted,* That the provisions of the before recited act, contained in the seventh, eighth, tenth, twelfth, thirteenth, fifteenth and eighteenth sections, are hereby declared to be in force, and applicable to the commissioners and sale which may be held agreeably to this act. Certain sections in a prior act to be in force.

4. *And be it further enacted,* That the persons that have already settled on said lands, waiting for the sale Occupants entitled to their crops.

thereof, shall be entitled to the benefit of the crops that they have planted previous to the sale above recited.

Discount allowed on payments in advance.

5. *And be it further enacted,* That if any purchaser shall be disposed to pay the whole of the purchase money, or any particular instalment, in advance, the treasurer or the commissioners are authorised to receive the same, and he shall be allowed a discount at the rate of eight per cent. on such advancement.

CHAP. 1061.

An act to amend the militia laws of this state,

Part of former act repealed.

(a See 1806, c. 708, s. 7.)

Adjutant-general where to bring suit.

1. *Be it enacted, &c.* That so much of the seventh section of an act, entitled "An act to revise the militia laws of this state," (a) passed in the year one thousand eight hundred and six, that makes it the duty of the adjutant-general to bring suit in any of the courts of record in this state, against field and general officers, be, and the same is hereby repealed.

2. *Be it further enacted,* That from and after the passing of this act, it shall be the duty of the adjutant-general of this state to bring suit against general and field officers in the superior court of the county in which such general or field officer resides, under the same rules and regulations as are prescribed by the militia laws of this state.

Clerks to make returns of fines.

3. *And be it further enacted,* That the clerks of the superior courts shall make return and account to the public treasurer for the fines so collected, in the same manner as the clerks of the county courts now do of the taxable property of their respective counties.

CHAP. 1062.

(See ante, c. 26, & 1819, c. 997.)

An act prohibiting white men from cultivating the lands reserved to the Cherokee Indians.

Fine for disobedience.

Be it enacted, &c. That from and after the passing of this act, it shall not be lawful for any white man to buy, rent, lease or cultivate any of the lands reserved to the Cherokee Indians by the late treaties in eighteen hundred and seventeen, and eighteen hundred and nineteen, nor to act as agent, attorney or trustee, in buying, rent-

ing, leasing or cultivating such lands: and any persons violating the provisions of this act, shall forfeit five hundred dollars, to be recovered in any court having cognizance of the same, the one half to any person suing for the same, and the other half to the state: *Provided nevertheless*, that this act shall not extend or be so construed as to prevent Richard Walker, on the Big Bear, from managing the lands allotted to them as they may think proper. Proviso.

CHAP. 1063.

An act to repeal an act passed in the year one thousand seven hundred and ninety-six, entitled "an act to punish persons for removing debtors out of one county to another, or out of the state," and for other purposes.

1. *Be it enacted, &c.* That an act passed in the year one thousand seven hundred and ninety-six, entitled "an act to punish persons for removing debtors out of one county to another, or out of the state," (a) be, and the same is hereby repealed. Former act repealed.

2. *Be it further enacted*, That if any person or persons shall remove or shall aid and assist in removing any debtor or debtors out of any county in which he, she or they shall have resided for the space of six months or more, with an intent by such removing, aiding or assisting, to delay, hinder or defraud the creditors of such debtor or debtors, or any of them, then such person or persons, so removing, aiding or assisting, shall be liable to pay all debts which the debtors or debtor so removed shall or may justly owe, in the county from which he was so removed; which debts may be recovered by the creditors respectively, who may be entitled thereunto, their executors or administrators, by an action on the case: *Provided*, such suit shall be commenced within three years from and after the time of such removal. (a See c. 471.)
Persons moving debtors liable for their debts.
Action barred at three years.

CHAP. 1064.

An act to authorise and direct the publication of the British Statutes in force in this state.

1. *Be it enacted, &c.* That Henry Potter be, and he is hereby authorised and empowered, to contract with the

Directing the British Statutes to be published.

(a See 1819, c. 990.)

Formal parts to be omitted.

present undertaker of the publication of the Revisal of the laws of this state, for the printing and publishing of such statutes and parts of statutes of Great-Britain as have been reported by the commissioners appointed to revise the laws of this state, in their opinion to be in force, upon the same terms of the contract now made for the printing and publication of the Revisal. (a)

2. *And be it further enacted.* That in preparing for publication the said statutes, the said Henry Potter is directed carefully to omit the formal parts of the said statutes, and that they be bound in the second volume of the Revisal.

CHAP. 1065.

(b See 1818, c. 966, 1819, c. 993.)

Commissioners of police to appoint auctioneers.

Their bond.

An act to amend an act entitled "an act laying duties on sales at auction of merchandise." (b)

1. *Be it enacted, &c.* That the commissioners of the several towns of Fayetteville, Wilmington, Newbern, Edenton, Elizabeth City, Halifax, and the city of Raleigh, shall have full power to appoint not less than one, nor more than three auctioneers for their respective towns, which auctioneers shall be appointed annually on the first Monday in April in each and every year, and who shall give bond to be approved of by the court of pleas and quarter sessions of the county, and otherwise be subject to the rules and regulations contained in the aforesaid act.

2. *And be it further enacted.* That all acts and clauses of acts coming in the purview and meaning of this act, are hereby repealed and made void.

CHAP. 1066.

An act directing the manner in which property levied on by sheriffs and constables shall be sold hereafter.

Sheriffs & constables when they levy an execution on lands or slaves, to sell at the court-house, on the

1. *Be it enacted, &c.* That from and after the passing of this act, it shall be the duty of the several sheriffs and constables in this state, when they, or any of them do levy an execution on land or slaves, to sell the same at the court-house of their respective counties, on the last Thursday in each and every month in each year, which

shall happen after the first day of February next, and the last Thursday in each and every month in each year, is hereby set apart for that purpose, and shall be considered as a sale day in every county in this state; and if on any sale day as aforesaid, the whole of the property taken by virtue of an execution cannot be sold on the same day, the constables or sheriff shall be authorised to continue the same from day to day until the whole shall be sold, on giving notice at the court-house that such sale will be continued on the ensuing day: *Provided nevertheless*, That the same notice shall be given at least forty days previous thereto, of the sale of real estate, and twenty days notice of the sale of slaves; and the sale shall be conducted under the same rules and restrictions as heretofore prescribed in such cases, and the said sale shall be made between the hours of ten and four o'clock. (a)

last Thursday in every month.

Notice of sale.

Sale laws.

(a See 1794, c. 413.)

2. *And be it further enacted*, That any sheriff or constable who shall sell any land or slaves, taken by virtue of an execution, at any other time or place than as above prescribed, shall forfeit and pay the sum of two hundred dollars, to be recovered in the name of any person who shall sue for the same.

To forfeit 200 dollars in case of disobedience.

3. *And be it further enacted*, That sales in the county of Currituck shall be held at the usual places of holding petit musters in said county in which the defendant may reside.

Fixing the sales in Currituck county.

4. *And be it further enacted*, That all laws and clauses of laws, coming within the purview and meaning of this act, be and the same are hereby repealed and made void.

Repealing clause.

CHAP. 1067.

An act for the relief of honest debtors. (b)

(b See 1773, c. 100.)

1. *Be it enacted, &c.* That from and after the first day of January next, when any debtor or debtors shall be taken upon any *capias ad satisfaciendum*, and shall be desirous of taking the benefit of the oath prescribed for the relief of insolvent debtors, or of rendering a full and fair schedule of his property, it shall and may be lawful for such debtor or debtors to tender to the sheriff of the county, his lawful deputy, or any constable by whom he, she or they may have been taken, a bond or

A party taken by a ca. sh. may give bond for his appearance at court, where he may take the oath of an insolvent debtor.

Proceedings in case of failure to appear at court.

If debtor is prevented from attending court, case may be continued.

If taken within 20 days of court.

Debtor giving bond shall be released.

Security may surrender his principal to court.

bonds, payable to the party at whose instance the arrest was made, with good and sufficient securities in twice the amount of the debt, conditioned for his appearance at the next county court, then and there to stand to and abide by such proceedings as may be had by the court in relation to his, her or their taking the benefit of this act; and in case of failure to appear, judgment shall be entered up *instantly* upon said bond against the principal and his securities, to be discharged upon the payment of the debt and costs. And when an execution issues thereon neither of the defendants shall be entitled to the benefit of this act. *Provided*, that if either of the parties to the said bond shall be desirous to have an issue made up and submitted to a jury, a jury shall be immediately impanelled to try such issue, and the plea of *non est factum* shall only be received upon the party making oath of its verity. *And provided further*, that if it shall be made to appear satisfactorily to said court that said debtor or debtors are prevented from attending court by sickness or other sufficient cause, to be judged of by the court, the case shall be continued over to the next court, at which time the same proceedings shall be had as if he had appeared at the first term. *And provided further*, that if such debtor or debtors shall die in the mean time, it shall be an absolute discharge of said bond or bonds: *Provided nevertheless*, that when any debtor or debtors shall be taken as aforesaid, within twenty days before the sitting of said court, said bond shall be conditioned for his, her or their appearance at the succeeding term of the court aforesaid.

2. *Be it further enacted*, That upon such debtor or debtors tendering such bond or bonds, it shall be the duty of such sheriff, deputy or constable, as the case may be, to release him, her or them from confinement or custody; any law, usage or custom to the contrary notwithstanding.

3. *Be it further enacted*, That to enable the honest debtor the more easily to obtain the security required in the first section of this act, it shall be lawful for the said security, at the court to which the principal is bound to appear, to surrender in open court the said principal in discharge of the security. And for the purpose of making the surrender, the security is hereby authorised to exercise all the power which by law special bail have over their principal.

4. *Be it further enacted.* That upon the appearance of such debtor or debtors at the county court aforesaid, it shall be lawful for him, her or them, either in person or by attorney, to move the court to be admitted to take the oath prescribed for the relief of insolvent debtors, or to swear to the schedule previously filed with the clerk of said court, agreeably to the provisions of this act hereinafter contained; and it shall be the duty of said court, upon such debtor or debtors making it appear to them that at least ten days notice has been given, in writing, to his, her or their creditors, of the intention to avail him, her or themselves of the benefit of this act, to administer the oath prescribed for the benefit of insolvent debtors, or to swear him, her or them to the schedule as aforesaid, (as the case may be,) and to direct the clerk to make an entry of the same upon his minutes, which shall exempt the body or bodies of such debtor or debtors from imprisonment for debt in all the cases where notice may have been given to the creditors, which notices shall be filed with the clerk of said court. *Provided nevertheless,* that if any creditor or creditors shall suggest any fraud or concealment of any property, money or effects, it shall be the duty of the court to direct an issue to be made up and tried by a jury at the first term before such debtor or debtors are sworn. *Provided further,* that if either of the parties shall be unprepared for the trial of such issue, the court may continue the same under the same rules and regulations by which suits at law are now continued; and if the said jury shall find that there is any fraud or concealment, or if said debtor or debtors shall fail or refuse to answer upon oath, or if said debtor or debtors shall fail to make it appear to the court that he, she or they have given the necessary notice to the creditor or creditors at whose instance he, she or they may have been arrested, then and in that case the said debtor or debtors shall be deemed in the custody of the sheriff, and the court shall adjudge that he, she or they be imprisoned until a full and fair disclosure of all the property, money or effects be made by said debtor or debtors, and until he, she or they have given the necessary notice as aforesaid, to be judged of by said court.

Debtor allowed to swear to a schedule of his property, or take the oath of insolvency.

Notice to be given.

Jury to try fraud.

If fraud found, &c. debtor to be imprisoned until a full disclosure, &c.

5. *Be it further enacted,* That when any debtor or debtors, taken upon any *capias ad satisfaciendum* as aforesaid, shall be desirous to render a full and fair

Debtor to file schedule before court.

schedule of his, her or their property and effects, he, she or they shall file the same with the clerk of the county court, at least ten days before the sitting of the court at which he proposes to avail himself of the benefit of this act; and that upon his being permitted to swear to the said schedule, the same proceedings shall be had thereon as may be now had on schedules filed under the law now in force.

No imprisonment for debt, if this act complied with, &c.

6. *Be it further enacted*, That no person shall be imprisoned for debt upon any *capias ad satisfaciendum* who will comply with the requisites of this act, except in cases of fraud or concealment herein before mentioned; any law, usage or custom to the contrary notwithstanding.

Repealing clause.

7. *Be it further enacted*, That all laws and clauses of laws, coming within the meaning and purview of this act, be, and the same are hereby repealed.

CHAP. 1068.

An act for the purpose of aiding to open the State Road from Jonathan Woody's blacksmith shop to the Tennessee line in the counties of Wilkes and Ashe.

Commissioners appointed.

1. *Be it enacted, &c.* That Elijah Calloway, George Bower, Gideon Lewis, James McNeil and William Judd, be, and they are hereby appointed commissioners to run the road already laid out from Jonathan Woody's blacksmith shop to the Tennessee line, and to designate on what parts of the said road it is most important to make the appropriation hereafter set apart for that purpose.

Plats to be made.

2. *And be it further enacted*, That the said commissioners shall cause two fair plats of the said road to be made out, one of which shall be transmitted to the board of managers of the fund for internal improvement, and the other shall be filed in the office of the clerk of the county court of Ashe; which plats shall represent the mountains and water courses over which the said road shall pass, and the distance of one remarkable place to another, together with the whole distance of the same.

Commissioners to contract for clearing the road.

3. *And be it further enacted*, That after having made out the plats as above said, it shall be the duty of the commissioners, and they are hereby authorised and em-

powered to contract for cutting out and clearing the said road in such a way and on such terms and conditions as they, or a majority of them, shall deem most advantageous to the public interest, and the speedy completion of the said road; and when it shall be so cut out and cleared and opened, it shall thereafter be and remain a public road and highway, for the use of the citizens of this state and all others, and shall be kept in repair as other roads or highways in this state.

4. *And be it further enacted.* That it shall be the duty of the said commissioners to transmit to the board of managers of the fund for internal improvement at their annual meeting in December next, all the vouchers, contracts or acts which they have made or done for the purpose of carrying the provisions of this act into effect.

5. *And be it further enacted.* That all the expenses incurred in clearing, opening and making the said road in the manner directed by this act, not exceeding the sum of fifteen hundred dollars, shall be paid out of the fund for internal improvement by the board of managers thereof, whenever a sufficiency of the said funds shall become due and paid into the treasury.

Board of internal improvement to pay the expense.

6. *And be it further enacted.* That each of the said commissioners shall be entitled to receive the sum of one dollar for each and every day they may be engaged in running the said road as aforesaid.

Compensation to commissioners.

CHAP. 1069.

An act to appoint commissioners to review part of the State Road in the county of Ashe.

1. *Be it enacted, &c.* That William Edwards, James Maxwell and David Edwards be, and they are hereby appointed commissioners to view a part of the Great State Road from John Lyle's to Absalom Bowers's.

Commissioners appointed.

2. *And be it further enacted,* That before they enter upon the duties of their office, they shall take an oath before some justice of the peace for the county of Ashe, to view the old way and the new, and make report of the best and most convenient way to the county court of Ashe, and the same shall be considered the public highway.

To take oath.

CHAP. 1070.

An act to amend an act, entitled "An act concerning the clerks of the superior courts of law and equity and clerks of the county courts," passed in the year eighteen hundred and nineteen.

Postage, &c. to
be taxed.
(See 1819, c.
995.)

Be it enacted, &c. That the provisions of the above recited act shall hereafter extend to the clerk of the supreme court of this state.

CHAP. 1071.

An act for repairing and improving the road leading from the place known by the name of the Old Fort, in Burke county, over the Swannanoah Gap, to Ashville in Buncombe county, and thence to the point of intersection with the road leading through Haywood county to the southern boundary line of this state.

Commissioners
appointed.

1. *Be it enacted, &c.* That John Burgwin and Robert Logan, jr. of the county of Burke, Samuel Davidson, of the county of Buncombe, be, and they are hereby appointed commissioners to view and point out such improvements and repairs on the road leading from the place known by the name of the Old Fort, in the county of Burke, over the Swannanoah Gap to Ashville, in Buncombe county, and thence to the point of intersection with the road leading through Haywood county to the southern boundary line of the state, as they or a majority of them shall think most important and necessary.

Plats to be
made out.

2. *Be it further enacted.* That the said commissioners shall cause two fair plats of said road to be made out, one of which shall be transmitted to the board of managers of the fund for internal improvement, and the other shall be filed in the office of the clerk of the county court of Buncombe, which plats shall represent the mountains and water courses over which the said road shall pass, and the distance from one remarkable place to another, and also the whole distance from the beginning to the termination of said road.

Commissioners
to contract for
its speedy execution.

3. *And be it further enacted.* That after having made out the plats as aforesaid, it shall be lawful for the commissioners aforesaid, and they are hereby empowered to contract for cutting out, repairing, clearing and improving said road, in such a way and on such terms

and conditions as they, or a majority of them, shall deem most expedient and advantageous to the public interest and speedy completion of the said road; and when the said road shall be so repaired, improved and put in good order, it shall thereafter be deemed and remain a public road and highway, free for the use of the citizens of this state and all others, and shall be kept in repair as other roads and highways in this state.

4. *And be it further enacted*, That it shall be the duty of the said commissioners to transmit to the board of internal improvement, at their annual meeting in December next, all the vouchers, contracts or acts which they may have made or done in order to carry the provisions of this act into effect. Further duty.

5. *And be it further enacted*, That all the expenses incurred in laying out, repairing and improving the said road, in the manner directed by this act, not exceeding fifteen hundred dollars, shall be paid out of the fund for internal improvement by the board of managers thereof, whenever a sufficiency of the monies of the said fund shall become due, and paid into the treasury. Expenses how to be paid.

6. *And be it further enacted*. That each of the aforesaid commissioners shall be entitled to receive the sum of one dollar for each and every day they may be engaged in running and laying out the said road as aforesaid. Commissioners' compensation.

CHAP. 1072.

An act to clear out and improve the navigation of Broad River, in the county of Rutherford.

Be it enacted, &c. That out of the fund set apart for the internal improvement of the state, the sum of five thousand dollars be, and the same is hereby appropriated to the improvement of the navigation of Broad River, from Twitty's Ford to the South-Carolina line, and the board for internal improvement is hereby directed to cause the work to be commenced as soon as, in their judgment, circumstances and the funds of the institution will justify the same. (a) 5,000 dollars appropriated of the fund for internal improvement.
(a See 1819, c. 989, 997, and 1024, s. 6.)

CHAP. 1073.

An act to provide for the payment of costs when a slave is convicted of a capital crime.

On conviction of slaves for capital offence, county to pay the costs.

Be it enacted, &c. That hereafter, when any slave shall be convicted of a capital crime, and executed in consequence of such conviction, the costs of prosecution shall be paid by the county in which such prosecution shall have commenced.

CHAP. 1074.

An act to incorporate the New river navigation company.

Style of the corporation.

Be it enacted, &c. That Edward Ward, Charles Suced, William Hill, Bazil R. Smith, William Mitchell, John Pollock, John Giles, Christopher Dudley, Edward Williams, William Montfort, Lewis T. Oliver, Joshua Foy, James Thompson, Richard Ward, Daniel Ambrose, William Humphrey, Asa Rhodes, Daniel M. Dulaney, of Onslow county, and their successors, be, and they are hereby declared to be a body politic and corporate, for the purpose of clearing out and improving the navigation of New river; to be known and distinguished by the name of the New River Navigation Company, and by that name shall have perpetual succession and a common seal: they shall be able and capable in law to sue and be sued, plead and be impleaded in any court within this state, and to do and perform all such acts and things as are incident to, or usually exercised by bodies politic and corporate, by the laws of this state, touching the objects of their incorporation.

CHAP. 1075.

An act to appoint commissioners to lay off and establish the dividing line between the counties of Chowan and Gates.

Whereas the dividing line between the counties of Chowan and Gates has not heretofore been sufficiently described, either by actual survey or by known and fixed boundaries, whereby it becomes expedient, in order

to prevent disputes between the inhabitants of said counties, that the said dividing line should be more accurately ascertained.

1. *Be it enacted, &c.* That Ephraim Elliot, of the county of Chowan, and Joseph Riddick, Esq. of the county of Gates, be, and they are hereby appointed commissioners, with full power and authority to lay off, extend and mark the line between the said counties, due regard being had to the former reputed line. Commissioners to mark the line

2. *Be it further enacted,* That the said commissioners shall appoint such surveyor, chain-carrier and other attendants as shall be necessary for the marking, extending and establishing the said line, and shall make or cause to be made a return of their proceedings to each of the courts of pleas and quarter sessions of the said counties, to be deposited and kept among the records thereof, and the said line, when so extended and laid off, shall forever thereafter be established and confirmed as the dividing line between the said counties. Their duty.

CHAP. 1076.

An act for extending and marking the dividing line between Bladen and Columbus counties.

1. *Be it enacted, &c.* That David Gillespie and Samuel B. Andres, of the county of Bladen, and John H. White and Jacob Guyton, of the county of Columbus, be, and they are hereby appointed commissioners to extend and mark the boundary line between the counties of Bladen and Columbus, as heretofore directed by law. Commissioners to mark the line.

2. *And be it further enacted,* That the said commissioners may, and are hereby authorised to employ one surveyor, one chain-bearer, and one marker, on behalf of each county, and to allow them a sufficient compensation for their trouble, which shall be paid equally out of the funds of the counties aforesaid, when the work is done. Their duty.

Read three times, and ratified in General Assembly, 2
the 25th day of December, A. D 1820. 5

B. YANCEY, S. S.
R. M. SANDERS, S. H. C.

A true copy.—WM. HILL, Secretary.



CHAP. 1077.

Times of holding the several Courts of Pleas and Quarter Sessions in the State.

ANSON COUNTY—The 3d Monday in January, April, July and October.
 ASHE—2d Monday in February, May, August and November.
 BEAUFORT—Monday next before the last Monday in February, May, August and November.
 BERTIE—2d Monday in February, May, August and November.
 BLADEN—1st Monday in do. do. do. do.
 BRUNSWICK—Last Monday in January, April, July and October.
 BUNCOMBE—1st Monday in January and July, and 1st Monday after the 4th Monday of March and September.
 BURKE—3d Monday in January, April, July and October.
 CABARRUS—3d Monday in do. do. do. do.
 CAMDEN—1st Monday in February and August, and 5th Monday after the 4th Monday of March and September.
 CARTERET—3d Monday in February, May, August and November.
 CASWELL—2d Monday after the 4th Monday of March, June, September and December.
 CHATHAM—2d Monday in February, May, August and November.
 CROWAN—2d Monday in March, June, September and December.
 COLUMBUS—2d Monday in February, May, August and November.
 CRAVEN—2d Monday in March, June, September and December.
 CUMBERLAND—1st Monday in March, June, September and December.
 CURRITUCK—6th Monday after the 4th Monday of March, June, September and December.
 DUPLIN—3d Monday in January, April, July and October.
 EDGECOMB—Last Monday in February, May, August and November.
 FRANKLIN—2d Monday in March, June, September and December.
 GATES—3d Monday in February, May, August and November.
 GRANVILLE—1st Monday in do. do. do. do.
 GREENE—2d do. do. do. do. do. do.
 GUILFORD—3d do. do. do. do. do. do.
 HALIFAX—3d do. do. do. do. do. do.
 HAWKINS—Last Monday in March, June, September and December.
 HERTFORD—4th Monday in February, May, August and November.
 HYDE—Last Monday in do. do. do. do. do.
 IREDELL—3d do. do. do. do. do.
 JOHNSTON—4th do. do. do. do. do.
 JONES—2d do. do. do. do. do.
 LENOIR—1st Monday in January, April, July and October.
 LINCOLN—3d Monday in January and July, and the 4th Monday after the 4th Monday of March and September.
 MARTIN—3d Monday in March, June, September and December.
 MECKLENBURG—4th Monday in February, May, August and November.
 MONTGOMERY—1st Monday in January, April, July and October.
 MOORE—3d Monday in February and August, and the Wednesday of each Superior Court Term in May and November.
 NASH—2d Monday in February, May, August and November.
 NEW HANOVER—3d Monday in February, May, August and November.
 NORTHAMPTON—1st Monday in March, June, September & December.

COUNTY COURTS.

ONslow—1st Monday in February, May, August and November.
ORANGE—4th do. do. do. do. do.
PASQUOTANK—1st Monday in March, June, September & December.
PERQUIMONS—2d Monday in February, May, August and November.
PERSON—4th Monday in March, June, September and December.
PITT—1st Monday in February and August, and 3d Monday in May and November.
RANDOLPH—1st Monday in February, May, August and November.
RICHMOND—3d Monday in January, April, July and October.
ROBERSON—4th Monday in February, May, August and November.
ROCKINGHAM—4th do. do. do. do. do.
ROWAN—3d do. do. do. do. do.
RUTHERFORD—2d Monday in January and July, and the 3d Monday after the 4th Monday of March and September.
SAMPSON—3d Monday in February, May, August and November.
STOKES—2d Monday in March, June, September and December.
SURRY—1st Monday in February, May, August and November.
TYRRELL—1st Monday after the 4th Monday of March, June, September and December.
WAKE—3d Monday in February, May, August and November.
WARREN—4th do. do. do. do. do.
WASHINGTON—3d do. do. do. do. do.
WAYNE—3d do. do. do. do. do.
WILKES—4th Monday in January, April, July and October.

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ERRATA.

Page 100, c. 4, the 2d section has No. 1.

112. The chapter at top should be 10.

141. After chapter at top, strike out 28.

254. In marginal note, strike out all after "*registered.*"

277. This page is marked 777.

279, s. 12. Marginal note, for *dervices*, read *services*.

290, 291, c. 115. In the sections, the No. 27 is twice repeated.

307, s. 62. This No. occurs twice.

435. Strike out "*chap. 184 is omitted,*" and insert "At a General Assembly begun at Hillsborough the 18th day of April, 1783, Alex. Martin, Esq. gov'r."

521, c. 229. In the reference, instead of "*acts here referred to,*" read "*there referred to.*"

544, c. 253. First section is put No. 2.

568. In the reference. Instead of giving "*then,*" read "*them.*"

580. Marginal note—for equity *butiness*, read *business*.

598. The No. of the chapter should be 297.

599. Strike out "*Appendix.*"

613, s. 4, Margin. "*If delay registered,*" should be *requested*.

768, last line. For *hattalion*, read *battalion*.

933, s. 1, Margin. For *entered*, read *returned*.

1138, c. 744. In the title and margin, for *sixteenth*, read *15*.

1314, c. 912, Reference. For "*thirty cents by 1817, c. 936,*" read "*the same as for arrest, by 1818, c. 978, s. 2.*"

In the chapters, the No. 945 occurs twice, and the No. 965, four times.

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